

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 15-E-0283 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of New York State Electric & Gas Corporation for Electric Service.

CASE 15-G-0284 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of New York State Electric & Gas Corporation for Gas Service.

CASE 15-E-0285 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Rochester Gas and Electric Corporation for Electric Service.

CASE 15-G-0286 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Rochester Gas and Electric Corporation for Gas Service.

ORDER APPROVING ELECTRIC AND GAS RATE PLANS
IN ACCORD WITH JOINT PROPOSAL

Issued and Effective: June 15, 2016

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PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on June 15, 2016

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Gregg C. Sayre
Diane X. Burman, concurring

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IN ACCORD WITH JOINT PROPOSAL

(Issued and Effective June 15, 2016)

BY THE COMMISSION:

INTRODUCTION

In this order, the Commission approves three-year electric and gas rate plans for New York State Electric and Gas Corporation (NYSEG) and Rochester Gas and Electric Corporation

(RG&E) (collectively, the Companies). The approved rate plans are generally in accord with the terms of a Joint Proposal executed by the Companies and seven other parties: trial staff of the Department of Public Service (Staff); the New York State Department of State, Division of Consumer Protection, Utility Intervention Unit (UIU); the New York State Office of General Services (OGS); Multiple Intervenors (MI); Nucor Steel Auburn, Inc. (Nucor); Pace Energy and Climate Center (Pace); and Wal-Mart Stores East, LP and Sam's East, Inc. (Wal-Mart) (collectively, the signatory parties), with minor modifications. Rates are established for the period beginning July 1, 2016 and ending April 30, 2019.¹

The rate plans reflect changes in electric and gas delivery service revenue requirements for each of the three years of the rate plans and include rate levelization or shaping for NYSEG Electric and Gas and RG&E Electric. NYSEG's electric revenue requirement will increase by \$29.6 million in Rate Year One, by \$29.9 million in Rate Year Two, and by \$30.3 million in Rate Year Three resulting in a delivery rate increase of 4.1 percent in each of the three rate years. The gas delivery service revenue requirement for NYSEG Gas will increase by \$13.1 million in Rate Year One, by \$13.9 million in Rate Year Two, and by \$14.8 million in Rate Year Three resulting in a 7.3 percent delivery rate increase in each rate year. For RG&E, the electric delivery service revenue requirement will increase by

¹ The Joint Proposal recommends three-year rate plans effective as of May 1, 2016 and ending April 30, 2019. The signatory parties, anticipating the possibility that the Commission would act on the Joint Proposal after May 1, 2016, included a make-whole provision in the Joint Proposal. This provision is designed to allow the Companies to recover any shortfalls and credit any over-recoveries such that the Companies would be in the same position had rates gone into effect on May 1, 2016 (Joint Proposal, p. 4).

approximately \$3 million in Rate Year One, \$21.6 million in Rate Year Two and \$25.9 million for Rate Year Three. These changes would translate to a delivery rate increase of 0.7 percent for Rate Year One, 5.0 percent for Rate Year Two and 5.7 percent for Rate Year Three. For RG&E Gas, the gas delivery service revenue requirement will increase by \$8.8 million (a delivery rate increase of 5.2 percent) in Rate Year One, by \$7.7 million (4.4 percent delivery rate increase) in Rate Year Two and by \$9.5 million (5.2 percent delivery rate increase) in Rate Year Three.

For the average residential electric customer, using 600 kilowatt-hours (kWh) a month, a customer of NYSEG could expect to see a monthly increase in the delivery charge on their bill in Rate Year One of approximately \$2.20, an increase of \$1.76 in Rate Year Two, and an increase of \$1.79 in Rate Year Three. An average residential electric customer of RG&E Electric may see an increase in their monthly delivery charge in Rate Year One of approximately \$1.10, approximately \$2.39 in Rate Year Two and approximately \$2.84 in Rate Year Three. Average residential gas customers using 80 therms a month could experience a monthly delivery charge increase of approximately \$1.35 at NYSEG Gas in Rate Year One, \$4.01 in Rate Year Two and \$4.21 in Rate Year Three. At RG&E Gas, average residential gas customers might see a monthly delivery charge increase of approximately \$2.39 in Rate Year One, \$1.60 in Rate Year Two, and \$1.95 in Rate Year Three.²

The allowed rate of return on common equity for all four businesses will be 9.00 percent, with an imputed equity ratio of 48 percent for each of the four businesses. The rate plans include an earnings sharing mechanism for each business; the implementation of a Rate Adjustment Mechanism designed to

² Companies' correspondence dated February 23, 2016, NYSEG and RG&E Electric-Gas Bill Impacts (Case 15-E-0283, DMM #78).

return or collect certain defined reconciled revenues and costs; new depreciation rates; and continuation of the existing revenue decoupling mechanisms for each business.

Other details of the rate plans include the continuation of the current Electric Reliability Performance Measures; acceleration of the Companies' natural gas leak prone main replacement programs; implementation of an Energy Smart Community Project in the Ithaca region to test Reforming the Energy Vision initiatives; neighborhood and community gas expansion programs; increases in the Companies' electric distribution and transmission vegetation management rate allowances; closure of three walk-in customer service centers; and an expansion of the Companies' low-income Programs.

The last electric and gas major rate order for NYSEG and RG&E was issued September 21, 2010 and established three-year, four-month rate plans through December 31, 2013.³ Most provisions included in those rate plans remained in effect until the establishment of new rate plans. On May 20, 2015, the Companies filed tariff revisions to change their rates, charges, rules and regulations for electric and gas service that were proposed to go into effect on April 16, 2016. Preliminary updates to the rate filings were provided by the Companies on August 5, 2015, and additional updates were included with the rebuttal testimony the Companies filed on October 13, 2015. The Companies filed further supplemental and corrected testimony and supporting exhibits on November 9, 2015. The Commission has suspended the Companies' rate filings and initiated these

³ Cases 09-E-0715, 09-G-0716, 09-E-0717, 09-G-0718, New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation - Electric and Gas Rates, Order Establishing Rate Plan (issued September 21, 2010).

proceedings to examine the merits of the Companies' proposals. The suspension periods currently extend through July 20, 2016.⁴

The Companies' final litigation position, as expressed in its rebuttal testimony, was a proposed increase of NYSEG's electric delivery rates of approximately \$123.8 million, a proposed 16.8 percent increase in delivery revenues.⁵ NYSEG sought to increase its gas delivery rates by approximately \$36.9 million, reflecting a delivery revenue increase of 19.8 percent.⁶ RG&E proposed to increase its electric delivery rates by \$42.5 million, an increase in delivery revenues of 9.6 percent.⁷ For its gas business, RG&E sought a delivery rate increase of \$22.2 million, an increase in delivery revenues of 13.1 percent.⁸ These revenue increases were proposed in the context of a litigated case where rates would be set for a one year period, but remain in effect until changed by the Commission.

Staff began its audit and investigation of the rate filings soon after they were submitted. An initial conference of the parties was held on June 22, 2015, and the schedule for these cases was set shortly thereafter. Pursuant to that schedule, Staff and eight intervenor parties filed testimony on September 16, 2015. Rebuttal testimony was filed on October 13, 2015.

The Companies filed a notice of impending settlement negotiations on October 8, 2015. Negotiations ensued. To facilitate such negotiations, on October 19, 2015, November 23, 2015, and November 30, 2015 the Companies consented to

⁴ See Companies' letter extending suspension period dated November 30, 2015.

⁵ Exhibit 392.

⁶ Id.

⁷ Id.

⁸ Id.

extensions of the suspension period in these proceedings ultimately through July 20, 2016.

A Joint Proposal was filed by the Companies on behalf of the signatory parties on February 19, 2016.⁹ All of the signatory parties filed statements in support of the Joint Proposal on March 11, 2016. The International Brotherhood of Electrical Workers, Local 10 (IBEW), a party to the proceedings and a participant in the settlement negotiations, filed comments requesting that the Commission disapprove the provision that would grant the Companies permission to close certain walk-in offices. A Reply Statement was filed by the Companies on March 25, 2016.

A notice soliciting public comments on the Joint Proposal was issued on February 26, 2016. Public statement hearings in these cases were held on March 29, 2016 in Binghamton, March 30, 2016 in Rochester, March 31, 2016 in Plattsburgh and April 13, 2016 in Brewster. Comments made at the public statement hearings or otherwise received by the Commission are described below.

In addition to the Public Statement Hearings, additional hearings were scheduled to receive comments on the proposed closure, in the Joint Proposal, of three walk-in offices. These hearings were held in Dansville on April 20, 2016 and in Mechanicville on April 21, 2016.

An evidentiary hearing to test the Joint Proposal in these cases was held in Albany on April 7, 2016. A pro se

⁹ By letter dated May 16, 2016, the Companies submitted an addendum to Appendix W of the Joint Proposal. This addendum proposes to modify the method of measuring generator performance of standby customers in consideration of timing concerns. The Companies state that the other signatory parties have expressed their consent or no objection to this modification. The addendum to the Joint Proposal is Attachment 2 to this order.

party, Mr. Richard Ford, presented direct testimony. The Companies and Staff produced panels of witnesses at the hearing that gave direct testimony and were subjected to cross-examination by Mr. Ford and another pro se party, Ms. Irene Weiser.

NOTICE OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), Notices of Proposed Rulemaking were published in the State Register on September 16, 2015 [SAPA Nos. 15-E-0283SP1, 15-G-0284SP1, 15-E-0285SP1, 15-G-0286SP1].

PUBLIC COMMENT

Numerous written comments have been received and posted on the Commission's website under Cases 15-E-0283, 15-G-0284, 15-E-0285 and 15-G-0286. In addition, approximately 50 individuals, including many that also submitted written comments, appeared in person to participate at the public statement hearings held in these proceedings. The two most prevalent issues raised in comments are concerns with development of natural gas infrastructure and the affordability of utility service.

In the NYSEG gas proceeding, many customers filed comments opposing the use of natural gas, many specifically objecting to the Lansing-Freeville Gas Reinforcement and/or Boiceville Reinforcement Projects, gas distribution line projects that are included in the budget contemplated by NYSEG in its proposed gas rate plan. These individuals cite the need to move away from all fossil fuels due to environmental and health concerns and argue that investing in more gas infrastructure is contrary to that goal. Several customers also allege coercive or unfair practices by NYSEG in obtaining easements necessary for the Lansing-Freeville Reinforcement

Project. Form letters were submitted by 233 customers in Tompkins County opposing the Lansing-Freeville Reinforcement Project citing the need to move away from reliance on fossil fuels, asking the Commission to incentivize NYSEG to find ways of meeting community heating needs by investing in energy efficiency, demand response and efficient heat pumps for space and water heating. The Towns of Caroline and Dryden, both located in Tompkins County, submitted resolutions urging the Commission to view expansion of natural gas as contrary to municipal and state goals for reducing greenhouse gas emissions,¹⁰ requesting the Commission look at alternative non-fossil fuel alternatives before authorizing expansion projects and asking the Commission to curtail incentives for gas expansion, instead offering incentives to reduce the number of natural gas customers. Likewise, at the public statement hearings held in Binghamton, most speakers expressed strong opposition to the Lansing-Freeville Gas Reinforcement Project, citing concerns similar to those expressed in the written comments.

In contrast, several elected officials and businesses submitted comments urging further infrastructure expansion, for both gas and electric, to support economic development. A number of customers weighed in in favor of gas infrastructure development by NYSEG, particularly with regard to NYSEG's proposed Boiceville project. Union representatives spoke at the public statement hearings in favor of the Lansing-Freeville Reinforcement Project.

Numerous residential customers commented in opposition to the rate increases, citing their struggle to pay utility

¹⁰ The resolutions cite the COP21 Climate Accord, New York State and Tompkins County greenhouse gas reduction goals and the towns' status as Climate Smart Communities.

bills and that any rate increase would be a considerable burden to middle and low income customers and retirees. One theme of these comments is a perceived unfairness to ask customers to pay any more for electric or gas service while Iberdrola's shareholders profit. A petition, signed by 77 individuals, was filed in opposition to the NYSEG rate increases, accusing NYSEG of overcharging customers and disregarding private property when maintaining electric lines. At the Rochester public statement hearing, a petition was submitted signed by 1,280 customers demanding lower rates, repayment of public benefit adjustments earmarked when Iberdrola purchased the Companies, a moratorium on shutoffs, arrears forgiveness and free reconnection.

Some customers wrote to complain the burden imposed by the fixed customer/minimum charge, alleging that such a charge creates a disincentive to conservation. Others feel that the Companies have not invested enough in their aging infrastructure and should be directed to use all additional funds to make their systems more reliable. Customers representing businesses and elected officials cite the need for more economic development and argue that the Companies are not doing enough to assist businesses. A number of business owners suggest that higher rates could deter businesses from remaining or establishing in New York. A few customers complain of billing errors and that they are receiving poor customer service.

Two hearings were held to address the proposed closure of three walk-in customer service centers. The Dansville hearing targeted the proposed closures of RG&E's Belmont and Geneseo offices and the Mechanicville hearing targeted the proposed closure of NYSEG's Mechanicville office. At both hearings, the Companies and Staff made statements and/or responded to questions from the Administrative Law Judges and statements were made in opposition to the closures by a union

representative of IBEW. Two members of the public attended the hearing in Dansville; one made a statement for the record showing concern for the future of the RG&E building in Geneseo. No members of the public attended the hearing in Mechanicville. One customer wrote comments opposing the closure of the Geneseo walk-in center.

REGULATORY FRAMEWORK

Pursuant to the Public Service Law, the Commission has jurisdiction to supervise the manufacture, sale and distribution of electricity and gas in New York State.¹¹ We are specifically called upon to regulate electric and gas rates to ensure that all charges are just, reasonable and adequate for the utility to provide safe and adequate service.¹² Where, as here, the filings under consideration represent a "major change" in rates as defined by the Public Service Law, such determinations are reached after hearings held upon notice to the public.¹³

In establishing utility rates, the Commission may consider any factor and assign whatever weight it deems appropriate.¹⁴ Commission determinations of rates are not to be set aside unless they are without any rational basis or reasonable support in the record.¹⁵

In cases where the terms of a Joint Proposal have been submitted for Commission consideration, we must determine if such terms, when viewed as a whole, produce a result that is in the public interest. In doing so we follow our Settlement Guidelines, and consider whether the terms appropriately balance protection of consumers, fairness to investors and the long-term

¹¹ Public Service Law §§ 5(1)(b); 66(1).

¹² Public Service Law §§ 65(1).

¹³ Public Service Law § 66(12)(c).

¹⁴ Abrams v. Public Service Com., 67 N.Y.2d 205, 212; 501 N.Y.S.2d 777, 779-780; 492 N.E.2d 1193, 1195-1196 (1986).

¹⁵ Id.

viability of the utility.¹⁶ The result of any negotiated proposal should be consistent with the environmental, social and economic policies of the Commission and the State; and it should produce results that are within the range of reasonable results that would have likely arisen from a Commission decision in a litigated proceeding.

TERMS OF THE JOINT PROPOSAL

The Joint Proposal offers three-year rate plans for electric and gas services for both NYSEG and RG&E. All four rate plans are proposed to be effective as of May 1, 2016. Rate Year One would be the 12-month period beginning May 1, 2016 and ending April 30, 2017; Rate Year Two would be the 12-month period beginning May 1, 2017 and ending April 30, 2018; and Rate Year Three would be the 12-month period beginning May 1, 2018 and ending April 30, 2019.¹⁷ The Joint Proposal, with attached appendices, is over 300 pages. Accordingly, the terms set forth below are generalizations included for the purposes of our discussion, and not intended to be a comprehensive description of all of the details included in the Joint Proposal.¹⁸

Revenue Requirement

By the terms of the Joint Proposal, NYSEG's electric revenue requirement would be levelized over the rate plans to avoid bill volatility. The electric revenue requirement would increase by \$29.6 million in Rate Year One, by \$29.9 million in Rate Year Two, and by \$30.3 million in Rate Year Three. These

¹⁶ Cases 90-M-0255, et al., Procedures for Settlements and Stipulation Agreements, Opinion 92-2 (issued March 24, 1992) (Settlement Guidelines), p. 30.

¹⁷ The signatory parties included a make-whole provision anticipating Commission action in these proceedings after May 1, 2016. See, supra, n. 1.

¹⁸ The Joint Proposal and its appendices are attached to and incorporated into this order as Attachment 1.

increases would create a proposed 4.1 percent delivery rate increase in each year with an estimated overall revenue increase of 2.7 percent. For NYSEG's gas business, the gas delivery service revenue requirement is proposed to be levelized and would result in increases of \$13.1 million in Rate Year One, by \$13.9 million in Rate Year Two, and by \$14.8 million in Rate Year Three. The increases for NYSEG customers would result in a delivery rate increase of 7.3 percent each year, an approximately 4.1 percent overall revenue increase each year.

For RG&E, the signatory parties propose some shaping of the rate increases. The electric delivery service revenue requirement would increase by approximately \$3 million for Rate Year One, \$21.6 million in Rate Year Two and \$25.9 million for Rate Year Three. These changes would translate to a delivery rate increase of 0.7 percent for Rate Year One, 5.0 percent for Rate Year Two and 5.7 percent for Rate Year Three. The overall revenue increase would be 0.5 percent in Rate Year One, 3.4 percent in Rate Year Two, and 3.9 percent in Rate Year Three. For RG&E gas, the gas delivery service revenue requirement would increase by \$8.8 million (a 5.2 percent delivery rate increase) in Rate Year One, by \$7.7 million (4.4 percent delivery rate increase) in Rate Year Two and by \$9.5 million (5.2 percent delivery rate increase) in Rate Year Three. These increases would result in proposed overall revenue increases of 2.8 percent in Rate Year One, 2.4 percent in Rate Year Two and 2.9 percent in Rate Year Three.

The proposed revenue requirements reflect a common equity ratio for all four businesses of 48.0 percent and a return on equity (ROE) of 9.0 percent.

Earnings Sharing Mechanisms

The terms of the Joint Proposal provide for an earnings sharing mechanism (ESM), which would establish the

distribution of any potential earnings above specified ROE thresholds between customers and shareholders. The threshold levels would escalate over the three-year rate plans with each rate year having three earnings sharing thresholds. The thresholds included for Rate Year Three would continue until rates are reset by the Commission.

For Rate Year One, the ESM would allow the Companies to retain all earnings up to and including a ROE of 9.50 percent. If the level of earnings exceeds that amount, the ESM would allow the Companies to retain 50 percent of earnings up to and including 10.00 percent, with the revenue requirement equivalent of 50 percent of earnings deferred for the benefit of customers. Earnings in excess of 10.00 percent and up to and including 10.50 percent would be shared 25 percent to the Companies and 75 percent to customers. Any earnings in excess of 10.50 percent would be shared 10 percent to the Companies and 90 percent to customers.

For Rate Year Two, the ESM would allow the Companies to retain all earnings up to and including a ROE of 9.65 percent. If the level of earnings exceeds that amount, the ESM would allow the Companies to retain 50 percent of earnings up to and including 10.15 percent, with the revenue requirement equivalent of 50 percent of earnings deferred for the benefit of customers. Earnings in excess of 10.15 percent and up to and including 10.65 percent would be shared 25 percent to the Companies and 75 percent to customers. Any earnings in excess of 10.65 percent would be shared 10 percent to the Companies and 90 percent to customers.

For Rate Year Three, the ESM would allow the Companies to retain all earnings up to and including a ROE of 9.75 percent. If the level of earnings exceeds that amount, the ESM would allow the Companies to retain 50 percent of earnings up to

and including 10.25 percent, with the revenue requirement equivalent of 50 percent of earnings deferred for the benefit of customers. Earnings in excess of 10.25 percent and up to and including 10.75 percent would be shared 25 percent to the Companies and 75 percent to customers. Any earnings in excess of 10.75 percent would be shared 10 percent to the Companies and 90 percent to customers.

Earnings sharing calculations would be on a rate year basis with no cumulative carryover. In calculating the sharing threshold, ROE calculations for each business would reflect the lesser of each Company's aggregate actual average common equity ratio or 50 percent.

Storm Costs

The Joint Proposal's terms provide for recovery of deferred NYSEG electric major storm costs of approximately \$262 million. The portion of those costs associated with "Super Storms," including Super Storm Sandy, Hurricane Irene and Tropical Storm Lee (\$123 million), would be amortized over ten years, with the balance of approximately \$139 million amortized over five years. RG&E's electric major storm reserve costs is estimated to be a \$2 million regulatory liability, a credit to customers, and would not be amortized during the rate plan.

In the Joint Proposal, a "Major Storm" is defined as "a period of adverse weather during which service interruptions affect at least 10% of customers or more" and/or "results in customers being without electric service for more than 24 hours in an operating district."¹⁹ The Companies would be permitted to charge restoration costs for each operating district meeting the Major Storm definition to the storm reserve if the total incremental costs for all Major Storm districts are equal to or greater than the per storm threshold, even if individually they

¹⁹ Joint Proposal, Appendix I, p. 1.

do not meet or exceed the threshold. Annual rate allowance for storms in this classification are proposed for NYSEG electric at \$21.4 million and for RG&E electric at \$2.52 million. The Companies would be permitted, on a limited basis, to charge costs incurred for storm preparation to their respective Major Storm Reserves. The annual rate allowances for Minor Storms are proposed at \$5.29 million for NYSEG electric and \$2.41 million for RG&E electric. NYSEG and RG&E would continue to employ reserve accounting for Major Storm costs, but no reserve accounting is proposed for minor storm costs.

Vegetation Management

The signatory parties propose an increase in the NYSEG electric distribution vegetation management rate allowance from \$20 million annually to \$25 million in Rate Year One, and \$30 million in Rate Years Two and Three. For those operating divisions in which NYSEG has completed a five-year trim cycle by the end of 2015, it would trim that entire division's mileage over the next five years (2016-2020). RG&E has achieved, and would continue, full-cycle vegetation management trimming for its distribution system. The vegetation management budgets for both companies would be subject to downward-only reconciliation. Shortfalls in spending for a calendar year would be deferred for use in subsequent calendar years.

Targets have also been proposed for each company, representing the minimum number of miles of trimming to be completed on an annual calendar year basis. If NYSEG does not meet its target, it would be subject to a negative revenue adjustment of \$2.15 million. If RG&E does not meet its minimum total target distribution miles on an annual calendar year basis, it would be subject to a negative revenue adjustment of \$420,000.

Variable Compensation

The signatory parties propose to exclude all executive variable compensation from the calculation of the Companies' revenue requirement. With regard to non-executive variable compensation, the proposed revenue requirement includes only the customer-driven portion of such compensation. The Companies would provide total compensation studies, developed in consultation with Staff, in their next rate case filings.

Accounting and Tax Matters

The Joint Proposal's provisions would require the Companies to align their definitions for certain units of property to render them more consistent. As a result of this change, items previously expensed at NYSEG would be capitalized, consistent with RG&E's practices.

The proposed rate plans provide for recovery of the deferred PowerTax regulatory asset, amortized over the remaining book life for each business.²⁰ The PowerTax regulatory assets would be amortized over 27 years for NYSEG Electric, 39 years for NYSEG Gas, 39 years for RG&E Electric and 34 years for RG&E Gas. The terms of the Joint Proposal would have Staff conduct an audit during the term of the rate plans to verify the balances related to the PowerTax regulatory assets. The terms of the Joint Proposal would permit the Companies to fully normalize all federal and state book and tax timing differences on their books and records as of May 1, 2016. The recovery of

²⁰ PowerTax is part of the PowerPlan suite of software products built for regulated utilities. Exhibit 614, Direct Testimony of Staff Accounting and Tax Panel (Staff A&T Panel), pp. 51-52. The Companies' correction of an accounting error upon conversion to the PowerTax software system resulted in the creation of a deferred regulatory asset. See Exhibit 23, Direct Testimony of Company Revenue Requirements Panel (Company RR Panel), pp. 99-106; Staff A&T Panel, pp. 51-61; Exhibit 348, Rebuttal Testimony of Company Revenue Requirements Panel, pp. 24-32.

an Unfunded Income Tax regulatory asset would be authorized at each business in the Companies' revenue requirement, amortized over a 50-year period. Under this proposal, Staff would conduct an audit during the term of the rate plans to verify balances related to Unfunded Income Tax regulatory assets.

The revenue requirements also reflect the inclusion of bonus federal tax depreciation benefits that were approved by the federal government in December 2015.

Electric Reliability and Gas Safety

The Joint Proposal's provisions would maintain the Companies' existing Electric Reliability Performance Measures and subject the Companies to negative revenue adjustments if targets are not met. Gas Safety Performance Measures would also continue, with some modifications, for both Companies, and a new Gas Safety Violations Performance Measure would be established. The new performance measure would subject the Companies to a negative revenue adjustment for instances of noncompliance of certain pipeline safety regulations.

Customer Service

The terms of the Joint Proposal include service quality metrics and targets, with associated potential negative revenue adjustments, for each Company. Several new provisions are proposed, including one requiring the Companies to attempt same-day service reconnections for 80 percent of residential customers disconnected for non-payment who, by making payment, become eligible for reconnection by 3:00 p.m. Monday through Friday. Customers would also be permitted to pay their NYSEG or RG&E bill by the use of a credit or debit card without incurring a fee.

The signatory parties also agree that the Companies, under proposed terms, should be permitted to close three walk-in

customer service offices, RG&E's offices in Belmont and Geneseo and the NYSEG facility in Mechanicville.

Low-Income Programs

The terms of the Joint Proposal would maintain the low-income programs for NYSEG and RG&E. Enrollment in the programs would continue to be automatic for any customer who receives payment under a Home Energy Assistance Program (HEAP) grant. Funding for the low-income programs would increase over the three-year rate term for the Companies. The Proposal would establish three tiers of low-income customers and would establish a discount amount relating to each tier.²¹ In addition, the Joint Proposal would continue the arrears forgiveness program and would remove all reconnection fees for low-income customers. All customers enrolled in a low-income Program would be referred to the New York State Energy Research and Development Authority's EmPower program for energy efficiency and/or budget counseling or similar programs.

Reforming the Energy Vision

The provisions of the Joint Proposal include the implementation of the Energy Smart Community (ESC) Project by NYSEG to test and explore implementation and deployment of Reforming the Energy Vision (REV)²² initiatives and, in particular, NYSEG's role as a Distributed System Platform Provider (DSP). The proposal includes funding for Distribution Automation and the roll out of advanced metering infrastructure (AMI) to customers on 12 circuits in the Ithaca region at a cost of approximately \$10 million. Other REV-related incremental

²¹ See Case 14-M-0565, Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers (the Affordability Proceeding), Staff Report (filed June 1, 2015).

²² Case 14-M-0101, Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision.

costs and revenue during the rate plans will be provided for through the Rate Adjustment Mechanism, described below.

In addition to the ESC, the Joint Proposal contemplates the use of non-wires alternatives (NWA) to replace or defer traditional transmission and distribution solutions. The Joint Proposal's terms describe how any NWA incremental costs would be recovered and, if the Companies utilize a NWA to replace or defer a transmission and distribution solution, the revenue requirement impact of the replaced or displaced project, with carrying costs, would be deferred for future customer benefit and the Companies' net plant targets would be adjusted accordingly.

Rate Adjustment Mechanism

The Joint Proposal contains a new mechanism, the Rate Adjustment Mechanism (RAM), for each business that would return or collect the net balance of specific costs defined in the Joint Proposal, including: property taxes; Major Storm deferral balances; gas leak prone pipe replacement; certain REV costs and fees; and NYSEG electric pole attachment revenues. The annual RAM recovery/return would be triggered only if the net of RAM-eligible deferrals meets the threshold level for that business. The proposed RAM would apply to all customers.

Performance Incentive Mechanisms

The terms of the Joint Proposal would authorize a number of Performance Incentive Mechanisms, providing a financial incentive to the Companies for attainment of certain goals. The Companies would receive a positive incentive for reducing terminations for non-payment and delivery uncollectibles, for achieving gas customer growth targets, and for replacing or eliminating Leak Prone Main in excess of their annual mileage targets.

Depreciation

The Joint Proposal includes new depreciation rates and associated plant accounts for all four businesses. NYSEG Electric would amortize \$23.3 million per year of its excess depreciation reserve.

Net Plant Reconciliations

The signatory parties propose targets for Electric and Gas Net Plant and Depreciation Expense. Each company would reconcile on an annual basis its actual Electric and Gas Net Plant and Depreciation Expense to those targets. It is also proposed that the actual electric, gas and allocated common average net plant targets for each rate year be reconciled to the electric, gas and allocated common net plant targets on an annual basis. The impact of such reconciliations (positive or negative) would carry forward with each Rate Year and would be summed at the end of the rate plans. At that point, the Companies would defer any negative cumulative revenue requirement impact for the benefit of customers. Positive cumulative revenue requirement impacts would not be deferred.

The Joint Proposal includes a list of anticipated capital projects, but retains the Companies' rights to modify the type, timing, identity, nature and scope of any of the forecasted capital projects. Changes in the forecasted expenditures would be subject to reporting requirements and review by Staff.

Reconciliations and Deferrals

The Joint Proposal's provisions also provide for the accounting treatment of certain costs, whether they may be reconciled and deferred, either partially or fully. Such specified expenses include, but are not limited to, property tax expenses, pensions and other post-employment benefits; electric

and gas vegetation management; pipeline integrity, and economic development programs.

Rate Design Issues

The competitive service rates are based on the embedded cost of service (ECOS) studies sponsored by the Companies. In the next electric rate case, the Companies would provide new electric ECOS studies and electric marginal cost of service studies, as specifically delineated in the Joint Proposal. The revenue allocation employed by the Joint Proposal is the product of compromise, and does not reflect any one ECOS study filed in these proceedings.

With respect to rate design, there would be no increase proposed in monthly customer charges for residential and small non-residential customers. Customer charges for medium and large non-residential classes would increase by 25 percent in Rate Year One. For Rate Years Two and Three, the revenue increases would be applied on an equal percent basis to monthly customer charges and demand charges for specified electric rate classes. For specified gas rate classes, the revenue increases would be applied on an equal percent basis to monthly customer charges and all volumetric block rates with certain exceptions for Rate Years Two and Three.

The proposed electric rate design provisions include alterations to the Voluntary Residential Time-of-Use Rates, the elimination of the incremental meter charge for electric Mandatory Hourly Pricing customers, and the plan to commence a collaborative to explore new rate designs within the Energy Smart Community Project. Proposed gas rate design provisions include updates to Gas Rates for Distributed Generation Service, incorporation of recommendations in Staff's White Paper on Lost

and Unaccounted For (LAUF) Gas²³ with clarifications, implementation of a gas interruptible rate by RG&E and an agreement of the signatory parties that a collaborative will be commenced to discuss the realignment of NYSEG and RG&E gas delivery rate structures to make them more consistent.

Under the terms of the Joint Proposal, the Merchant Function Charge and Purchase of Receivables Discount would continue with several modifications, Economic Development rates would be updated, and the practice for allocating Unaccounted for Energy would be modified. Standby customer charges are proposed at the same level as otherwise applicable service classifications, with the remaining revenue requirement associated with standby rates recovered through contract demand charges and as-used demand charges. The signatory parties also included a performance credit that standby customers would be able to earn against their contract demand charges based on the performance of their generating facilities. The Joint Proposal's provisions also provide that the Companies would file LED street lighting tariffs for Commission review within six months of this rate order.

It is proposed that the Companies implement new non-rate assistance economic development programs and enhance some existing programs. Among others, the programs would provide funding assistance to redevelop brownfield sites or vacant buildings; make electric-related infrastructure improvements for agricultural operations; revitalize commercial corridors/main streets; make natural gas related infrastructure improvements; and target financial assistance programs at both NYSEG and RG&E that would supplement existing economic development assistance programs.

²³ Exhibit 596, Exhibits of Staff Gas Sales and Revenue Requirement Panel.

Revenue Decoupling Mechanism

The terms of the Joint Proposal would continue the use of Revenue Decoupling Mechanisms (RDMs). For the electric companies, the RDMs would continue on a total revenue per class basis. Street and Area Lighting service classes would be subject to the RDM commencing in Rate Year Two, if the Companies' tariffs include an LED offering effective by the beginning of Rate Year Two. For the gas companies, the RDMs would continue on a revenue per customer basis. The RDM target for Rate Year Three for both electric and gas would repeat until changed by the Commission.

Annual Compliance and Reporting Requirements

The Joint Proposal's provisions would resolve all known Annual Compliance Filing issues prior to and including Calendar Year 2014 including issues relating to storm deferral balances, charges against the storm reserves, and earnings sharing calculations.

Other Provisions

The signatory parties propose changes to the Companies' Code of Conduct to dictate how the corporate names of the Companies' and their affiliate businesses may be used and licensed in certain contexts. They also proposed that the Companies establish natural gas marketing and expansion programs to expand the growth of their natural gas systems and to acquire new customers. The Joint Proposal includes funding for a natural gas conversion rebate program, a study to examine the potential for Compressed Natural Gas as a transportation fuel within the Companies' territories, and the continuation of the Gas Cost Incentive Mechanism that allows for shared benefits between customers and shareholders.

DISCUSSION

As a result of the substantial efforts of the parties to these proceedings, the foregoing terms of a Joint Proposal are before us for consideration. The negotiated phase of this process commenced after parties had had the opportunity to submit testimony and began with the issuance of a notice to all potential participants as required by our rules. As outlined above, the public was offered opportunity, through Commission solicitations, to comment on the Joint Proposal through various means, including making statements at public hearings and by filing written comments. Procedurally, therefore, we find that the Joint Proposal was arrived at through an appropriately transparent process with full opportunity for participation by all interested parties.

Next, we must turn to the question of whether the terms of the Joint Proposal, viewed as a whole, produce a result that is in the public interest. We must consider whether the proposal comports with the law and relevant public policies; falls within the range of litigated outcomes; fairly balances the interests of ratepayers, investors and the long-term soundness of the utility; is supported by an adequate record that provides a rational basis for decision; and has the support of normally adversarial parties.²⁴

Here, the Joint Proposal has the support of eight parties. The fact that the proposed terms are satisfactory to so many parties with diverse interests suggests that the Joint Proposal reflects a reasonable compromise that is within the range of outcomes that could have been expected from a litigated decision. Only one party that participated in negotiations - IBEW -- filed comments suggesting that the Commission modify the proffered agreement, and the proposed modification is limited to

²⁴ Settlement Guidelines, pp. 30-31.

one issue. At the evidentiary hearing on the Joint Proposal, two pro se parties, Mr. Richard Ford and Ms. Irene Weiser, raised concerns in cross-examination about issues that are, likewise, very limited in scope and are addressed below. These parties also spoke at public statement hearings and submitted written comments. No direct opposition was filed by any other party.

These indicia of reasonableness are not determinative, but they are an important consideration. They reflect an exceptional effort to build a consensus that could be supported by the representatives of distinct, and often diametrically opposed, interests. Consequently, in considering whether the principal components of the Joint Proposal are in the public interest, we are disinclined to tamper with the interrelated compromises negotiated by the parties in the absence of a demonstration that a provision of the agreement is inconsistent with sound policy, outside the range of likely litigated outcomes, or inimical to the protection of ratepayers, fairness to investors or the long-term viability of the Companies.²⁵

We conclude that the collective terms of the Joint Proposal reflect a fair balance between the interests of consumers, investors, and the long-term viability of the Companies. For customers, the rate plans provide a higher degree of rate predictability and stability, offer some mitigation of necessary rate increases, and permit continued access to safe, adequate and reliable electric and gas service. For the Companies' investors, the plans provide the opportunity to earn a reasonable return on investment. For the Companies, the terms of the Joint Proposal would provide sufficient revenues to support necessary infrastructure projects and

²⁵ Settlement Guidelines, p. 8.

operate the systems in a safe and reliable manner while maintaining or enhancing the Companies' credit ratings.

Further, the rate plans articulated by the Joint Proposal are consistent with several other recently approved rate plans and advance important policy objectives. Specifically, the terms of the Joint Proposal would promote the principles grounding our Reforming the Energy Vision Proceeding,²⁶ continue our efforts to enhance gas safety, incentivize expanding customer access to natural gas service throughout the NYSEG and RG&E territories and, consistent with the generic low-income proceeding (Affordability Proceeding),²⁷ enhance the Companies' low-income programs to provide assistance to those customers most in need.²⁸ We will discuss these provisions below in further detail.

Accordingly, based on our review of the Joint Proposal and the entirety of the record in this proceeding, we approve the terms of the Joint Proposal. Several key aspects of the approved rate plans are discussed in further depth below.

I. Term of Rate Plans

The Joint Proposal establishes three-year rate plans for each of the four businesses. The three-year term of the rate plans provide the Companies with adequate revenue requirement and rate stability to more effectively pursue longer term projects to meet their obligation of providing safe, adequate and reliable electric and gas service. The proposed term also provides a higher degree of predictability and

²⁶ Case 14-M-0101, supra.

²⁷ Case 14-M-0565, Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers.

²⁸ In the Joint Proposal, the signatory parties acknowledge that these ongoing policy proceedings ultimately may influence the terms of the rate plans and, where appropriate, identify the potential for necessary future adjustments to the rate plans.

delivery rate stability to customers and moderates the rate changes by incrementally increasing rates over the three-year term. Multi-year rate plans also conserve resources that would be necessary to participate in separate, annual rate litigations. Accordingly, we conclude that the three-year term of the rate plans is beneficial to all parties.

II. Revenue Requirement

A. Size of Revenue Increase

The rate plans adopted herein result in an increase in rates for NYSEG and RG&E customers over the course of the three-year rate plans. The proposed rate increases in Rate Year One, however, are substantially below the rate levels proposed by the Companies in their initial filing and represent a significant compromise of the parties' litigation positions.²⁹ In its testimony, Staff recommended an increase of \$11.8 million for NYSEG Electric and reductions for the other three businesses; \$2.8 million for NYSEG Gas, \$23.4 million for RG&E Electric and \$2.9 million for RG&E Gas.³⁰ The Companies' final litigation position was a proposed increase of NYSEG's electric delivery rates of \$123.8 million, NYSEG's gas delivery rates by \$36.9 million, RG&E's electric delivery rates by \$42.5 million and RG&E's gas delivery rates by \$22.2 million.³¹ As reflected in the Statements in Support filed by the signatory parties, the resulting revenue requirement was the product of extensive

²⁹ For a comparison of revenue requirement positions, see Attachment 3.

³⁰ Exhibit 582, Prepared Testimony of Staff Revenue Requirement Panel, p. 10.

³¹ Exhibit 392, Companies' Reconciliation of Staff Policy Panel Exhibit.

settlement discussions and resolved a number of contested issues related to individual revenue requirement components.³²

The majority of cost components included in the proposed revenue requirement are traditional utility costs, necessary for providing safe and adequate service. Across the four businesses, capital expenditures represent a significant driver of rate increases.³³ Staff characterizes many of the rate drivers in these proceedings as common among most New York State energy utilities, namely, "net plant and related depreciation expense, property taxes, operation & maintenance expense increases related to vegetation management, maintenance and contractor work, pension and other post-employment benefit (OPEB) costs, and allowances for storm costs."³⁴ However, while many costs are relatively routine, there is one notable outlier relating to substantial deferred storm costs by NYSEG Electric. Several significant storms impacted the NYSEG territory between 2010 and 2014 and NYSEG Electric incurred substantial costs as a result. The Joint Proposal reflects the recovery of deferred costs of those storms at \$262 million. Of that amount, \$123 million is associated with "Super Storms."

In proposing the rate plans adopted here, the signatory parties took steps to moderate the revenue requirement increases, including those related to deferred storm costs, by

³² New York State Department of Public Service Staff Statement in Support of Joint Proposal, filed March 11, 2016, pp. 7-12 (hereinafter, all Statements in Support filed by the signatory parties on March 11, 2016 will be cited by referring to the party's identified abbreviated name, see supra, p. 2, followed by "SIS"); MI SIS, pp. 3, Company SIS, pp. 7-8, UIU SIS, pp. 3-4.

³³ For example, in Rate Year One, NYSEG Electric capital program expenditures represent a driver of the revenue requirement increase of approximately \$37.8 million, NYSEG Gas \$9.5 million, RG&E Electric \$44.2 million, RG&E Gas \$8.0 million. See, Staff SIS, Attachment A, p. 1.

³⁴ Staff SIS, p. 13.

amortizing certain costs, passing along tax savings benefits, and shaping the recovery of revenue requirement to lessen impacts to ratepayers. For example, the NYSEG Electric rate plan will amortize storm costs, with Super Storm costs being recovered over ten years and the remaining storm costs amortized over five years.³⁵ This resolution appropriately balances the interests of NYSEG with ratepayers by spreading the cost out over time to minimize rate impacts.³⁶

For NYSEG Electric, the revenue requirement is further reduced by amortizing the excess depreciation reserve. NYSEG will reduce the book depreciation reserve by \$23.3 million a year over the term of the plan. These amortizations are beneficial and appropriate, because they would return ratepayer excess contributions that will reduce the revenue requirement.³⁷ We discuss this issue further, below.

The revenue requirements reflected in the rate plans also incorporate a change in federal tax law passed at the end of 2015 that provides for the continuation of federal bonus depreciation through 2019.³⁸ The signatory parties have calculated the projected benefits of the program based on eligible plant additions over the rate plans and have incorporated those benefits into rate base.³⁹ The reflection of these changes will reduce costs for ratepayers and will also

³⁵ Joint Proposal, Section VII, pp. 10-11 and Appendix I.

³⁶ In addition, the rate plans will take steps to mitigate the likelihood of large storm-related deferrals by changing the definition of a major storm, adjusting the major storm budget to better reflect historical trends and establishing a rate adjustment mechanism that will allow the Companies to collect certain additional costs during the rate plans, including deferred major storm costs, if they reach a specified threshold level. We discuss the mechanism further, below.

³⁷ MI SIS, p. 9.

³⁸ Staff SIS, p. 35.

³⁹ Staff SIS, p. 35.

provide a benefit to the Companies by improving their financial metrics.⁴⁰ In addition, deferred carrying costs related to bonus tax depreciation accrued during the last rate plans will be passed back to ratepayers of the NYSEG businesses and RG&E Electric over the rate plans, representing a significant benefit to ratepayers.⁴¹ In the case of RG&E Electric, use of these credits to the benefit of ratepayers is particularly significant given the sizable amount of customer credits used in Case 14-E-0270 to moderate the impacts of a RSSA.⁴²

Finally, to moderate some of the impact of the proposed increase in revenue, the signatory parties have engaged in rate leveling and shaping which the Companies and UIU laud as another benefit to the rate plans.⁴³ As described by UIU, the shaping will help to soften customer rate shock and enhance predictability, to the particular benefit of residential and small commercial customers.⁴⁴ In the case of the NYSEG businesses, rates increase by the same percentage in each of the three rate years. For RG&E electric, the signatory parties have

⁴⁰ MI SIS, p. 8.

⁴¹ For NYSEG Electric, approximately \$53 million will be amortized over five years (Joint Proposal, Appendix B, Schedule H); for NYSEG Gas, approximately \$12 million will be amortized over five years (Joint Proposal, Appendix C, Schedule H); for RG&E Electric, some of the regulatory liability will be paid back to customers over the rate plan: \$2.5 million in Rate Year One, \$5 million in Rate Year Two and \$10 million in Rate Year Three (Joint Proposal, Appendix D, Schedule H).

⁴² See Case 14-E-0270, R.E. Ginna Nuclear Power Plant, LLC - Proposal for Continued Operations, Order Adopting the terms of a Joint Proposal (issued February 24, 2016). Among the terms of the Joint Proposal in that proceeding is an agreement to refrain from advocating the use of more than \$10 million in customer credits in the first year of rates for RG&E Electric in these proceedings. See id., Appendix A, §3.2.2.1.

⁴³ UIU SIS, pp. 4-5.

⁴⁴ UIU SIS, p. 5.

shaped the rate increase so that customers would experience a moderate increase in the first year with more significant increases (5.0 percent and 5.7 percent, respectively) in the following two rate years.⁴⁵

We find that the overall revenue requirements proposed by the signatory parties are reasonable, within the range of a litigated outcome and in the public interest. Importantly, no party has suggested that the Commission should reject the overall revenue requirement recommendations of the Joint Proposal.⁴⁶ While we are mindful of the concerns raised by members of the public regarding the hardship of rate increases, we must also consider the capital and operating financial needs of the Companies to ensure the continued provision of safe and reliable service. We find that the revenue levels in the rate plans strike a balance between the needs of customers and the need of the Companies.

B. Rate of Return and Sharing of Over-Earnings

The Companies' original rate filing sought a rate of return based on a return on equity (ROE) of between 9.84 and

⁴⁵ In its Statement in Support, Staff states leveling of the RG&E electric rate increase was not proposed because RG&E electric customers are currently paying for reliability support services which are anticipated to terminate in Rate Year 2 or 3. Staff SIS, p. 12. See Case 14-E-0270, R.E. Ginna Nuclear Power Plant, LLC - Proposal for Continued Operations, Order Adopting the terms of a Joint Proposal (issued February 24, 2016).

⁴⁶ The two pro se parties that challenged discreet components of the Joint Proposal did not directly challenge the proposed revenue requirement. Ms. Weiser objects to gas infrastructure build-out, specifically the Lansing-Freeville Reinforcement Project and Boiceville Reinforcement Project, and questions the prudence of pursuing those projects and suggests consideration of alternatives, rather than specifically challenging the projected costs of the projects. Mr. Ford raises a rate design issue.

10.29 percent⁴⁷ and proposed the use of a 50 percent equity ratio.⁴⁸ Staff recommended an ROE of 8.60 percent using stand-alone capital structures composed of 48 percent common equity.⁴⁹ As described above, the terms of the rate plans provide for an ROE of 9.00 percent for each of the four businesses using a capital structure with a 48 percent equity ratio.

The rate plans provide for sharing with customers in the event of excess earnings by the Companies by establishing an earnings sharing mechanism. The ESM thresholds would increase slightly each year over the three-year plans, and each year would include three threshold levels of sharing. Earnings above the first threshold level would be shared by customers and the utility 50/50, earnings above the second sharing level would be shared 75/25 between customers and the utility, respectively, and those above the final threshold sharing level would be shared 90/10 (with the majority to customers). Staff highlights the precision of the earnings sharing mechanism calculations and the detailed built-in adjustment mechanism encompassed by it that, according to Staff, will limit disputes over the calculation in the future.⁵⁰

In determining an appropriate rate of return, the Commission supports a revenue requirement allowance that is adequate for the Companies to recover the cost of funds supplied to them by investors, assuming efficient and economical management by the Companies, to maintain and support their credit, and to allow them to raise capital at a rate that is generally equal to the return on other investments in other

⁴⁷ Exhibit 232, Direct Testimony of Company witness Ann Bulkley (Bulkley), p. 62, lns. 13-14.

⁴⁸ Bulkley, p. 4, lns. 9-12; p. 48, lns. 1-8.

⁴⁹ Exhibit 554, Direct Testimony of Staff Cost of Capital Panel, p. 7, ln. 18-20.

⁵⁰ Staff SIS, p. 28.

business undertakings which are attended by corresponding risks and uncertainties.⁵¹ To determine if a rate of return recommendation is reasonable, it must be weighted in relation to all of the proposed terms of a rate plan. This determination must consider investor requirements and expectations in general, the ways in which the risks of a particular rate plan may vary from the typical level of risk seen by investors in other utility investments, the resulting financial strength of the utility, and the impacts of the recommendation on the overall revenue requirement.

We find that the proposed ROE and equity ratio are reasonable in the context of these proceedings. While the ROE adopted here represents a return greater than Staff's litigated position, the 40 basis point increase is appropriate in the context of multi-year rate plans whereby the Companies are exposed to added business and financial risk by their stay out agreement. The capital structure and cost of capital advanced by the Joint Proposal are reasonable in the context of the current financial climate and are consistent with our recent decisions. We have allowed a 48 percent equity ratio and equity earnings of 9.00 percent in our approval of several recent rate plans including those of Orange and Rockland, Central Hudson and Con Edison, each the product of a Joint Proposal.⁵² The ROE and

⁵¹ Federal Power Comm'n. v. Hope Natural Gas Co., 320 U.S. 591 (1944); Bluefield Water Works & Improvement Co. v. Public Serv. Comm'n, 262 U.S. 679 (1923).

⁵² Case 14-E-0493, et al., Orange and Rockland Utilities, Inc. - Rates, Order Adopting Terms of Joint Proposal and Establishing Electric Rate Plan (issued October 16, 2015), pp. 41-42. Case 14-E-0318, et al., Central Hudson Gas & Electric Corporation - Rates, Order Approving Rate Plan (issued June 17, 2015), pp. 55-56. Case 15-E-0050, et al., Consolidated Edison Company of New York, Inc. - Rates, Order Adopting Terms of Joint Proposal to Extend Electric Rate Plan (issued June 19, 2015), pp. 35-36.

equity ratio represent a compromise of the parties' litigation positions and clearly are within the range of a reasonable outcome of a litigated proceeding.

We note that the ROE recommendation proposed by both the Staff witnesses and the Companies' witness employ the cost of equity methodologies we have approved in multiple rate cases for over 20 years. The resulting ROE of the rate plans should be very much in-line with investors' requirements and expectations and, notably, the ROE is only slightly higher than the one testified to by Staff as a reasonable rate for a one-year rate plan in their direct testimony. The rate plans are designed to permit the Companies to earn the allowed return, while putting them at risk if their performance is not satisfactory. The rate of return appears to properly balance these issues.

In addition, the revenue requirements adopted today result in credit metrics which are expected to be maintained or improved over the course of the rate plans.⁵³ These metrics, as Staff's statement in support of the Joint Proposal highlights, should allow the utilities to maintain their current credit ratings, if not result in improvement.⁵⁴ This allows the Companies the flexibility they require to adapt to an ever-changing industry.

Finally, we find that the ESM protects customers in the event that there is over-earning by the Companies. The structure of the ESM is consistent with other such provisions. Such sharing agreements also benefit customers by incenting the Companies to find savings which will be recognized in any future rate proceedings.

⁵³ Company SIS, p. 10.

⁵⁴ Staff SIS, p. 15.

III. Other Revenue Requirement Issues

A. Distribution Vegetation Management

An aggressive vegetation management program designed to decrease tree-related outages and thereby improve reliability is of critical importance, especially considering the magnitude of tree-related storm costs that the Companies have experienced in recent years. Acknowledging as much, the Companies' initial filing would have NYSEG move to a full-cycle distribution vegetation management program, whereby NYSEG would complete all trimming across its service territory within a definite time-frame, repeated in a continuous cycle.⁵⁵ Staff originally supported that proposal, citing the benefits of reduced outages and the fact that NYSEG is the only major electric utility in New York State not on a full-cycle distribution trimming schedule.⁵⁶ MI characterized the proposal as exorbitant, and was not satisfied that the proposed program was justified in light of its significant cost.⁵⁷

In its Statement in Support, Staff candidly admits that, although a full-cycle program would be optimal, in light of the magnitude of NYSEG's other revenue requirement needs and the resulting impact on rates, Staff agreed to support the proposed compromise position articulated in the Joint Proposal.⁵⁸ The terms adopted today further delay full-cycle tree trimming implementation, but do increase the allowance for NYSEG electric distribution vegetation management from \$20 million annually to

⁵⁵ Exhibit 15, Direct Testimony of Company Vegetation Management Panel, p. 8-27. RG&E is already on a full-cycle distribution vegetation management program.

⁵⁶ Exhibit 549, Direct Testimony of Staff Vegetation Management Panel (Staff VM Panel), pp. 18-19

⁵⁷ MI SIS, p. 8.

⁵⁸ Staff SIS, p. 9.

\$25 million in Rate Year One, \$30 million in Rate Year Two and Three.⁵⁹

Recognizing that with compromise, comes concession, and that not all optimal results are accessible within the context of a rate case if we are to protect ratepayers from unreasonable rate increases, we approve the signatory parties' proposal. Certain factors exist which make this result more palatable. First, in the Companies' last rate case, we established a reliability performance mechanism, with a minimum distribution line mileage target for vegetation management and corresponding negative revenue adjustment, to ensure that NYSEG did not continue historic under-performing.⁶⁰ We find it reassuring that, since that time, NYSEG has been successful in meeting the distribution trimming target each year.⁶¹ Second, the increased vegetation management budget will permit NYSEG to secure two additional dedicated transmission arborists to oversee its vegetation management activities. This evidence of NYSEG's commitment to make advances in its tree-trimming efforts and the continuation of the potential negative revenue adjustment for failure to reach a mileage target provide assurance that NYSEG will continue to move toward the ultimate goal of minimizing tree-related outages.

For both Companies, customers are protected by a downward-only reconciliation mechanism for vegetation management expenses, such that any shortfall in the amount expended by the

⁵⁹ Joint Proposal, p. 11. There is an inconsistency in the amount for Rate Year Three between the text of the Joint Proposal (reflecting \$30.0 million) and Appendix J (reflecting \$30.3 million). We take notice that \$30.0 million is the accurate number.

⁶⁰ Case 09-E-0715, et al., New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation - Electric and Gas Rates, Order Establishing Rate Plan, p. 65.

⁶¹ Staff VM Panel, p. 14.

Companies from funding level targets will be deferred for use in subsequent calendar years.⁶² The signatory parties also appropriately recognized that the Federal Energy Regulatory Commission has redefined "bulk electric system" to include most electric transmission facilities of 100 kV or more and, as a result, new vegetation management costs or other costs may be imposed upon the Companies.⁶³ In that event, the Companies retain the right to petition the Commission to defer for future recovery such costs. As a whole, we find that the vegetation management provisions included in the rate plans are reasonable and in the public interest in context of this proceeding.

B. Depreciation

The initial litigation positions of the parties in these cases revealed substantial disagreement over the appropriate prospective depreciation rates to be utilized in calculating the Companies' revenue requirements. The Companies, Staff and Nucor submitted testimony supporting different average service lives, curve shapes, and salvage rates, factors which impact the depreciation rates and annual expense for each company.⁶⁴ The rate plans adopted here establish depreciation rates that are the product of significant effort and compromise.⁶⁵

⁶² Joint Proposal, Appendix J.

⁶³ See Joint Proposal, p. 32, citing North American Electric Reliability Corp. 146 FERC ¶ 61,199 (2014).

⁶⁴ Exhibit 621, Direct Testimony of Staff Depreciation Panel (Staff DP); Exhibit 687, Direct Testimony of Nucor witness Frank W. Radigan (Radigan), pp. 13-36. Staff proposed the following adjustments to the Companies filing: reducing NYSEG's electric and gas annual depreciation expenses by \$17.5 million and \$4.0 million, and increasing the common expense by \$1.9 million; for RG&E, reducing electric and gas annual depreciation expenses by \$5 million and \$2.5 million, and increasing the common expense by \$1 million (Staff DP, p. 11).

⁶⁵ Staff SIS, p. 21.

Perhaps the most significant point of contention related to depreciation was the calculation and associated amortization of NYSEG's electric excess reserve. The theoretical reserve is the amount of depreciation expense that should have been collected as of a particular date, given the survivor curve and net salvage used to determine the depreciation rates.⁶⁶ Where the book reserve (the amount actually collected) differs more than ten percent from the theoretical reserve, adjustments may be made to amortize the difference. Prior to negotiations in the NYSEG electric case, Staff calculated the difference between NYSEG's electric book reserve and theoretical reserve at \$665 million, or 58% of the theoretical reserve.⁶⁷ Staff originally proposed to utilize this excess depreciation reserve to off-set NYSEG's under-recovered storm costs, one of the major drivers of NYSEG electric's increased revenue requirement.⁶⁸ In rebuttal, the Companies agreed that the ten percent tolerance band had been exceeded such that some amortization was necessary, but challenged Staff's calculations and argued that the proposed adjustment would severely impact cash flow and related credit metrics of NYSEG.⁶⁹ The Companies proposed to amortize \$12.1 million of NYSEG electric's excess reserve per year for the benefit of customers.

In the NYSEG electric rate plan adopted today, \$23.3 million of the excess depreciation reserve will be amortized per year, thus providing customers with some rate moderation. The parties were not able to reach consensus on the quantification

⁶⁶ Staff DP, p. 5.

⁶⁷ Staff DP, p. 22.

⁶⁸ Exhibit 506, Direct Testimony of Staff Policy Panel (Staff Policy Panel), p. 14.

⁶⁹ Exhibit 390, NYSEG/RG&E Rebuttal Testimony of Policy Panel, pp. 9-30.

of NYSEG electric's theoretical depreciation reserve, but they were able to agree to this compromise to enable negotiations to move forward. We find that the compromise, in the context of the terms of the Joint Proposal as a whole, is reasonable. It is consistent with our policy of addressing reserve surpluses of deficiencies that are beyond a ten percent tolerance band, but limits the amount of the amortization so as to not harm credit metrics. The rate plan thus balances the interests of ratepayers who contributed to the excess and are deserving of compensation in the form of a credit, and the interests of the Companies in maintaining sufficient cash flow to avoid a credit rating negative outlook.

C. Rate Adjustment Mechanism

In their initial filing, the Companies presented a plan to establish a Rate Adjustment Mechanism (RAM) that would collect or return deferred costs, reserve balances and service and reliability revenue adjustments.⁷⁰ The RAM, as originally proposed, would include costs associated with major storms and all other regulatory assets and liabilities.⁷¹ The Companies proposed RAM impacts be limited to ten percent of delivery revenues and asserted that the RAM was desirable to avoid the build-up of deferred costs or credits that would impact cash flow, a critical component in determining the Companies' credit ratings.⁷²

For its part, Staff recognized the benefit of a RAM, stating that it would likely be viewed favorably by credit rating agencies, would reduce the amount of regulatory assets and liabilities on the books, reducing cash flow volatility, and could be audited by Staff to ensure costs and expenses are fully

⁷⁰ Company RR Panel, p. 121-122.

⁷¹ Id.

⁷² Id.

supported.⁷³ However, Staff's support for a RAM was conditioned on significant modifications. Staff's modifications included limiting recovery in the RAM to cash deferrals, requiring reasonable levels of expense for reconciled items in base rates, limiting the RAM impact to an annual recovery of 2.5 percent of delivery revenues, reflecting the threshold of a major rate change, and changing the allocation method and carrying charge rates.⁷⁴

The rate plans we adopt today establish a RAM at each of the Companies. The RAM will allow the Companies to return or collect the net balance of certain deferrals if in excess of established thresholds, including property taxes, Major Storm reserve balances, gas leak prone pipe replacement carrying costs, REV costs and fees that are not covered by another recovery mechanism and NYSEG Electric Pole Attachment Revenues.⁷⁵ While the thresholds for amounts collected or returned by the RAM are significant⁷⁶ and the RAM adds a level of uncertainty to ratepayers during the rate plans, we find that on the balance this mechanism will benefit both the Companies and ratepayers. For the Companies, the RAM allows for more expeditious recovery in the case of unforeseen or uncontrollable costs such as major storms or property taxes. Importantly, it also allows them to pursue REV initiatives whose costs for which there is no other existing cost recovery mechanism. Allowing a streamlined process within the context of three-year rate plans to recover

⁷³ Staff Policy Panel, pp. 30-31.

⁷⁴ Staff Policy Panel, pp. 27-30.

⁷⁵ Joint Proposal, Appendix S, p. 1.

⁷⁶ The annual RAM recovery/return is limited to: \$19.3 million for NYSEG Electric; \$5.2 million for NYSEG Gas; \$11.4 million for RG&E Electric; and \$4.4 million for RG&E Gas. Staff advises in its Statement in Support that these numerical limits represent approximately 2.5% of each business's delivery service revenues. (Staff SIS, p. 48.)

such funds strengthens the Companies' cash flow, which may translate to strengthening their credit ratings, a benefit to both the Companies and their customers. We also find that the rate design of the RAM is fair and equitable. On the electric side, annual recovery or return amounts will be allocated on delivery service revenues and recovered on a per kWh basis for non-demand classes and on a per kW basis for the demand classes. On the gas side, the RAM annual recovery or return amounts will be allocated to service classifications based on delivery service revenues and recovered from customers on a per therm basis. The resulting in cost allocation and recovery therefore are similar to that as if the costs were recovered via rate base. Finally, we find that the RAMs have a robust review process whereby the Companies share their RAM calculations with Staff and other interested parties. Any disputes arising from the RAM calculations will be attempted to be resolved among the parties with any unresolved issues being brought before us for resolution.⁷⁷ Staff also retains its audit rights of deferred costs included by each of the Companies in their respective RAMs. We find these safeguards sufficient to ensure only appropriate costs are recovered.

D. Variable Compensation

In their filings, the Companies included a portion of variable compensation for both executives and non-executives in revenue requirement. The included portion was that compensation that was determined to have been earned for customer-related successes, such as, for example, those related to safety and reliability, rather than those earnings associated with a shareholder benefit, such as meeting a net income target.⁷⁸

⁷⁷ Joint Proposal, Appendix S.

⁷⁸ Evidentiary Hearing Tr., p. 124; Exhibit 1, Direct Testimony of Company Workforce, Compensation and Benefits Panel, pp. 24-26.

Staff questioned the foundation for these inclusions, indicating that the Companies should have supported their proposal with a single combined total compensation study, inclusive of base pay, variable incentive compensation and the dollar value of benefits.⁷⁹ Staff also opposed the inclusion in rates of any executive variable compensation.⁸⁰

The rate plans reflect a compromise, in that no executive variable compensation is included in the Companies' revenue requirements, but the customer-driven portion of non-executive variable compensation is included. Further, the Companies have agreed to consult with Staff regarding the methodologies to be employed in developing a study to be utilized in the next rate cases. This resolution is reasonable, as it supports the Companies' efforts to incentivize their employees to strive for excellent customer service, while addressing Staff's concerns, and looks forward to improving the evidentiary foundation for this issue in the next rate case.

IV. Revenue Allocation and Rate Design

After the Joint Proposal was filed, the Commission issued its Order Adopting a Ratemaking and Utility Revenue Model Policy Framework (Ratemaking Order).⁸¹ In the Ratemaking Order we established numerous filing requirements to implement the policies described in that order with regard to rate design. The Companies are bound to comply with the provisions of the Ratemaking Order, even though such compliance may ultimately change the rate plans adopted here today. The signatory parties recognized as much in the Joint Proposal, and agreed that the Joint Proposal "does not limit the Commission's ability to require the Companies to take certain actions pursuant to the

⁷⁹ Exhibit 578, Direct Testimony of Staff Witness Caitlyn Edmundson (Edmundson), pp. 8-12.

⁸⁰ Edmundson, pp. 23-24.

⁸¹ Case 14-M-0101, supra (issued May 19, 2016).

REV-related Proceedings and to provide for cost recovery of incremental costs of such actions in separate orders.”⁸² We have endeavored to identify those terms of the Joint Proposal that are presently in direct conflict with the Ratemaking Order and modified the rate plans accordingly, but our failure to identify any particular issue shall not justify noncompliance with the Ratemaking Order.

Initially, the Companies, Staff and intervenor parties sponsored testimony in these proceedings reflecting widely different positions regarding the appropriate ECOS study to be relied upon, and how responsibility for the Companies’ revenue requirement should be allocated among customer classes.⁸³ For example, UIU argued that the Companies’ initial position would have disproportionately allocated costs to residential and small commercial customers. UIU sponsored testimony challenging the Companies’ and Staff’s classification of numerous electric distribution plant accounts as 50% customer related and 50% demand related, arguing instead for a 100% demand allocation to protect small customers.⁸⁴ To achieve consensus and avoid litigation, the parties agreed that the revenue allocation sponsored by the Joint Proposal would not reflect any single ECOS study sponsored by any specific party to these

⁸² Joint Proposal, p. 3.

⁸³ See, e.g., Exhibit 48, Direct Testimony of Companies’ Revenue Allocation, Rate Design, Economic Development, and Tariff Panel (Company RAREDT Panel), pp. 13-17; Exhibit 537, Direct Testimony of Staff Electric Rates Panel, pp. 13-21; Exhibit 734, Direct Testimony of UIU Rate Panel on Embedded Cost of Service, Rate Design and Revenue Allocation (UIU Rate Panel), pp. 16-160; Exhibit 666, Direct Testimony of MI witness Jeffrey Pollock, pp. 3-34; Radigan, pp. 36-43; Exhibit 753, Direct Testimony of Wal-Mart witness Steve W. Chriss, pp. 18-20.

⁸⁴ UIU Rate Panel, pp. 46-52.

proceedings.⁸⁵ However, in the next rate case, the Companies have agreed to provide electric ECOS studies that classify certain accounts using a 50% demand/50% customer basis, a 100% demand basis, and another alternative should the Companies rely upon one.⁸⁶

The revenue allocation agreed upon by the signatory parties, and adopted here, utilizes the Companies' ECOS to update competitive service rates. The discount rates applicable to the Companies' rate-assistance economic development programs will be updated based on the Companies' filed marginal cost of service studies. Other rates are subject to an allocation methodology that is designed to very gradually move cost recovery to more closely align with actual costs incurred. For example, the agreed upon rate plans provide that in Rate Year One, service classes that are producing rates substantially above the system average are allocated a minimum increase of .75 times the system-average increase, whereas service classifications producing rates of return well below the system average are allocated a maximum increase of 1.25 the system-average increase. After allocating costs to service classes based on cost of service evidence in Rate Year One, in the other two years the rate plans impose system-average increases by an equal percentage across all classes. This gradual approach reflects a compromise between the original litigation positions

⁸⁵ Joint Proposal, p. 33.

⁸⁶ Joint Proposal, Appendix W, p. 1. The Companies have also agreed to initiate discussions with interested parties to review and identify up to three different methodologies for conducting future electric marginal cost of service studies.

of the parties and is justified to avoid customer shock in light of the magnitude of the proposed delivery rate increase.⁸⁷

Perhaps more than any other aspect of the Joint Proposal, the signatory parties' proposed revenue allocation reflects the product of pure compromise in furtherance of resolving highly contentious issues. The crafted solution, perhaps by virtue of the effort expended to find middle ground, is reasonable and fair to the different classes of customers that the Companies serve. Accordingly, we adopt the proposed allocation without change.

The rate plans also reflect significant compromise in rate design. For example, the Companies originally proposed an increase in customer charges for all customers to better reflect fixed costs, but several parties opposed the proposal as allegedly burdensome to residential and low-income customers and representing a disincentive to energy efficiency.⁸⁸ The signatory parties instead agreed that customer charges for residential and small commercial electric and gas customers will not increase during the rate plans.⁸⁹ Larger electric and gas commercial customers will experience a 25 percent increase to the customer charge in the first year.⁹⁰ For Rate Years Two and Three, revenue increases are applied on an equal percentage basis across customer and demand and/or usage charges. This

⁸⁷ MI SIS, p. 12 (MI points out that although the negotiated revenue allocations are not favorable to all MI members, on a collective basis they are consistent with the cost of service evidence presented in these proceedings); UIU SIS, p. 7; Staff SIS, p. 38; Company SIS, p. 29.

⁸⁸ Company RAREDT Panel, p. 18, 29; UIU SIS, p. 7; Pace SIS, pp. 8-9; see also, Direct Testimony of Richard Ford, Evidentiary Hearing Tr., pp. 35-36.

⁸⁹ Joint Proposal, Appendix W.

⁹⁰ RG&E's SC-3HP is an exception. For that class, the customer charge is set at current levels for all three years and the increase is spread into volumetric rates.

proposal recognizes that customer charges for larger customers are materially below what the cost-of-service evidence would support and addresses that issue in a "serious but measured manner."⁹¹

Mr. Ford, in his written public comments and testimony at the evidentiary hearing, opposes any customer charge. He states that, mathematically, it is undeniable that having a fixed customer charge as part of the fee paid to a utility has the impact of reducing the percentage by which a customer's overall bill can diminish as a result of a reduction in the customer's energy usage. Mr. Ford argues that if customers were billed solely on the bases of their usage, they would have more incentive to engage in energy efficiency.⁹² To eliminate the customer charge, however, is to ignore the fact that there are fixed costs associated with providing service that would be unfairly shouldered by larger-volume customers if all revenue were collected based on usage. While the issue of what costs are invariable with usage and thus appropriately part of a fixed charge continues to be the subject of debate, we have recently recognized that a fixed charge remains an appropriate component of rate design based on cost causation.⁹³ Accordingly, the terms of the rate plans adopted here, which provide that the customer charge will continue, but not increase, for small customers over the terms of the rate plans, is fair and reasonable.

Under the terms of the rate plans we adopt today, standby electric customer charges will be fixed at the level

⁹¹ MI SIS, p. 14. MI also points out that the increase in customer charge is not onerous for larger customers as it reflects a much smaller percentage of the overall delivery bill than it does for small customer, and because it is offset by changes in electric demand charges and gas block charges that are beneficial to large customers.

⁹² Evidentiary Hearing Tr., pp. 35-36.

⁹³ Ratemaking Order, Appendix A.

otherwise applicable for full service customers, with the remaining revenue requirement recovered through contract demand charges and as-used demand charges. The Joint Proposal also provided that customers who utilize standby rates would be permitted to earn credits against their contract demand charges based on the performance of their generating facilities.⁹⁴ In the Ratemaking Order, however, recognizing the need for significant standby rate reform, we adopted certain interim measures, including a reliability credit. Specifically, utilities were directed to implement a reliability credit that is triggered when a customer demonstrates that it has reduced its demand on the utility grid below the contract demand level for two consecutive summer periods. We rejected the argument that the reliability credit should be based solely on the performance of the generator. Instead, consistent with REV goals, we found it important to encourage a variety of resources and activities to reach the objective of reducing demand, such as storage or demand-reducing technology.⁹⁵

In the Joint Proposal, the signatory parties recognized that additional changes to standby rate design might be necessitated by the then-anticipated Ratemaking Order.⁹⁶ Accordingly, in lieu of the performance credit proposed, the Companies' compliance tariffs should include a reliability credit as described in the Ratemaking Order.⁹⁷ The inclusion of such a credit will give standby customers the opportunity to prove, and be rewarded for, their demonstrated ability to reduce actual demand on the electric system. Such a credit is

⁹⁴ Joint Proposal, Appendix W.

⁹⁵ Ratemaking Order, pp. 130-131.

⁹⁶ See Joint Proposal, Appendix W, p. 8; MI SIS, p. 16; Pace SIS, p. 12-13.

⁹⁷ Because the output of a generator is not needed for the calculation of the reliability credit, the proposed Addendum to the Joint Proposal (see Attachment 2) is obsolete.

consistent with the goals of REV as it will improve system planning and more closely reflect the benefit of standby customers to the efficiency of the electric system.⁹⁸ In addition to the reliability credit, the Ratemaking Order requires the Companies to implement an offset tariff in its standby rates, akin to the offset tariff currently in Consolidated Edison's tariff.⁹⁹ The Companies, therefore, must also file an offset tariff in compliance with the Ratemaking Order.

The Companies have also committed to filing a tariff applicable to light-emitting diode (LED) street lighting within six months. The importance of an LED tariff to communities looking for ways to reduce costs with more efficient street lighting options was highlighted at the Binghamton public statement hearings.¹⁰⁰

The method of allocating Unaccounted for Energy (UFE) is modified in these rate plans by excluding Mandatory Hourly Pricing (MHP) customers from the UFE allocation.¹⁰¹ UFE is the hourly difference between the amount of electricity entering a utility's system as measured by the New York Independent System Operator (NYISO) and the actual amount of electricity used by customers after adjusted for losses. OGS advocated for this change, asserting that UFE should not be allocated to hourly metered retail customers. OGS procures electricity for state agencies that are MHP customers whose meters track actual usage

⁹⁸ Ratemaking Order, p. 130; Cases 15-E-0050 and 13-E-0030, Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric Service, Order Adopting Terms of Joint Proposal to Extend Electric Rate Plan (issued June 19, 2015), pp. 41-42.

⁹⁹ Ratemaking Order, pp. 26, 131-132.

¹⁰⁰ Transcript of 3/30/16 Public Statement Hearing (Tr. 3/30/16), 3 p.m., pp. 34-42.

¹⁰¹ Joint Proposal, Appendix W.

for every hour of the day. According to OGS, because MHP customers do not contribute to the difference between profiled loads and actual use, it is inequitable to have them contribute to the cost of UFE.¹⁰²

In rebuttal testimony, both Staff and the Companies argued to the contrary, asserting that while the difference between actual energy use and profiled energy use contributes to UFE, it is not the only contributing factor.¹⁰³ Staff and the Companies asserted that even if all customers had hourly meters, UFE would still exist due to other unquantifiable contributing items, such as theft of service, differences in actual losses from average losses, meter errors, billing errors and unmetered service.

In its Statement in Support, Staff nevertheless recommends adoption of the proposed modification to UFE allocation, recognizing that the use of load profiles for non-MHP customers may introduce additional hourly volatility that detrimentally impacts certain MHP customers. Indeed, OGS explains that the allocation of UFE to MHP customers interferes with its ability to effectively schedule and manage load for state agencies because UFE cannot be controlled or predicted. On balance, the proposed modification for allocating UFE seems reasonable in light of the testimony that at least a portion of UFE is not caused by MHP customers.

V. Non-Rate Assistance Economic Development Programs

The rate plans will continue and expand non-rate assistance economic development programs, such as grant assistance programs to make infrastructure improvements necessary to develop brownfields and vacant buildings and to

¹⁰² OGS SIS, p. 2.

¹⁰³ Exhibit 643, Rebuttal Testimony of Staff Electric Rate Panel, pp. 15-16; Exhibit 373, Rebuttal Testimony of Company RAREDT Panel, p. 38.

support energy efficiency enhancements in partnership with the New York State Energy Research and Development Authority.¹⁰⁴ In addition to these programs, the rate plans also include several new economic development grant programs that would support urban/main street revitalization, promote productivity-improvement projects and seek to attract the development of high-growth-potential companies to establish their businesses in certain zones. The Companies highlight these programs as having significant benefit and value to customers and communities in their territories.¹⁰⁵ By boosting economic growth on a local level, promoting jobs and strengthening local economies, these programs will ultimately benefit individual customers.

Nevertheless, OtsegoNow, the umbrella economic development organization representing the Otsego County Capital Resource Corporation and Industrial Development Agency, filed comments opposing the increased electric and gas rates for NYSEG. It asserts that NYSEG has failed to respond to its concerns regarding the need to support economic development in Otsego County and thus seeks a stay of these proceedings to allow for a full review of the existing infrastructure serving Otsego County and evaluation of the surrounding region for delivery and overall capacity restrictions and limitations.

The capital budgets approved herein give NYSEG and RG&E flexibility to construct infrastructure that meets customer needs. In addition, the signatory parties have agreed to an incentive mechanism that rewards the Companies for attaching new customers to the system, and the Neighborhood Expansion Pilot Program, Community Expansion Pilot Program, and Community Development Fund Pilot Program. These programs create new ways for NYSEG to meet the needs of customers trying to access

¹⁰⁴ Joint Proposal, p. 35, Appendix R.

¹⁰⁵ Company SIS, pp. 29-30.

natural gas. However, we are sensitive to OtsegoNow's concerns regarding economic development. We direct Staff to work with NYSEG and OtsegoNow to develop a plan to address infrastructure needs within Otsego County. NYSEG shall file a report describing the plan within 60 days of this Order.

VI. Low-Income Programs

In the Companies' original testimony, they sought increases in funding for their low-income programs, but the only significant design change proposed was the addition of a budget balance component to the arrears forgiveness program, designed to stabilize the monthly bills of a customer.¹⁰⁶ Staff opposed that change and submitted testimony in accord with the staff report filed in the then-pending Affordability Proceeding.¹⁰⁷ Staff instead recommended that utilities establish discount levels designed to reduce the levelized monthly total bill for the average participant to no more than six percent of their annual income.¹⁰⁸ Staff's proposal in these proceedings included establishing three tiers of low-income participants, based upon the number of HEAP add-ons a HEAP participant receives.¹⁰⁹ UIU also submitted testimony related to low-income issues, taking

¹⁰⁶ Exhibit 208, Direct Testimony of Company Customer Services, Energy Efficiency and Retail Access Panel (Company CS Panel), p. 15.

¹⁰⁷ Staff contended that the budget balance component proposed by the Companies would involve significant administrative costs in direct conflict with the position staff took in the Affordability Proceeding, where staff argued that the administrative cost portion of low-income budgets should be reduced or eliminated. See Case 14-M-0565, Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers (the Affordability Proceeding), Staff Report (filed June 1, 2015) (Staff Affordability Report), p. 50; Exhibit 491, Direct Testimony of Staff Consumer Services Panel (Staff CS Panel), p. 30.

¹⁰⁸ Staff Affordability Report, supra, p. 33.

¹⁰⁹ Staff CS Panel, p. 25.

the position that no significant design changes for the Companies' low-income programs should be made while the Affordability Proceeding was pending.¹¹⁰

We recently issued an Order Adopting Low Income Program Modifications and Directing Utility Filings in the Affordability Proceeding.¹¹¹ The terms proposed by the signatory parties go far toward meeting the objectives we set forth in that Order. Moreover, the parties anticipated that modifications to the proposed terms might be necessitated by the outcome of the Affordability Proceeding and explicitly provided for such an event in the Joint Proposal.¹¹² Where there are direct conflicts between the proposed low-income programs and the Affordability Order, we have endeavored to identify them and modify the proposed plans accordingly. To the extent any other conflicts exist, or arise as a result of the future compliance obligations set forth in the Affordability Order, the Affordability Order will take precedence and govern.

The rate plans adopted today continue the Companies' low-income programs and provide for an increase in funding for both the bill discount programs and the arrears forgiveness programs.¹¹³ Importantly, the plans reflect many of the components that we recently called for in the Affordability order, including the tiered discount strategy and the six percent energy burden which, in the context of these proceedings, produces an increased discount for the most vulnerable, tier-three customers.¹¹⁴ The Companies have also

¹¹⁰ Exhibit 731, Direct Testimony of UIU witness Gregg Collar (Collar), p. 5.

¹¹¹ Case 14-M-0565, supra (issued May 20, 2016) (Affordability Order).

¹¹² Joint Proposal, p. 19.

¹¹³ Joint Proposal, Appendix O.

¹¹⁴ Affordability Order, p. 3.

agreed that low-income customers will not be charged a reconnection fee to restore service, a change consistent with demands made by petition and at our Rochester public statement hearings.¹¹⁵ The programs continue to include energy efficiency and budget management education for participants.¹¹⁶ Excess costs experienced by the Companies associated with the low-income programs would be deferred for future recovery, and any under-expenditures of the programs would be rolled over for use in subsequent rate years.

Pursuant to the Affordability Order, the Companies must make the required filing to achieve implementation of the low-income program framework adopted there. Given the progress already made toward this goal in the proposed rate plans, the Companies' filing will need to address a limited number of issues, including: (a) expanding program eligibility to all households that receive HEAP, regardless of fuel type; (b) adjustments to discount levels; (c) incorporation of budget billing requirements; (d) implementing the 2 percent budget limit mechanism (although both Companies are projected to be well below this level); and (e) filing a timetable for compliance with the enhanced reporting requirements.¹¹⁷ These changes may be implemented through the filing requirement in the context of the Affordability proceeding. For example, no immediate modification of the proposed low-income programs is necessitated by the eligibility requirements at this point because the Companies are already enrolling all HEAP recipients, regardless of fuel type, to the extent they are currently identifiable. Likewise, the Affordability Order's directive to have all low-income customers automatically enrolled in

¹¹⁵ See Tr. 3/30/16.

¹¹⁶ Joint Proposal, p. 18.

¹¹⁷ Affordability Order, pp. 3-5.

levelized or budget billing is best accomplished in a filing within the Affordability proceeding.

One modification to RG&E's low-income program is necessary. The Affordability Order established a limit on arrears forgiveness program funding of no more than ten percent of total program budget. NYSEG's program is below this level; however, RG&E's program is budgeted at \$1.13 million annually, or approximately 15 percent of total budget.¹¹⁸ On a levelized basis over the three-year term of the rate plan, ten percent of the program budget equates to approximately \$750,000. RG&E's budget for their arrears forgiveness program is, therefore, modified accordingly, with the excess amount reserved for future use.

We adopt the terms of the proposed low-income programs, as modified here, finding them to be in the public interest and consistent with the Affordability Order and our goals of creating a more protective, uniform system to improve energy affordability for low-income households.¹¹⁹

VII. Customer Service

Of the parties that participated in negotiations in these proceedings, only one seeks any modification of any term of the Joint Proposal. Specifically, IBEW submitted comments asking the Commission to exclude the permission granted to the Companies to close three walk-in offices, and most particularly the NYSEG Mechanicville Office.¹²⁰ This issue was originally the source of dispute between Staff and the Companies as well. In

¹¹⁸ Joint Proposal, Appendix O.

¹¹⁹ Affordability Order, p. 9.

¹²⁰ Comments of International Brotherhood of Electrical Workers, Local 10 on the Joint Proposal, March 11, 2016 (IBEW Comments), p. 1. The Mechanicville office is located at 6 Werner Road, Route 146, Clifton Park. The other offices proposed for closure are the RGE offices located at 23 Schuyler Street, Belmont and at 56 Main Street, Geneseo.

their initial filing, the Companies proposed to close seven of their 21 walk-in offices that have a history of either little traffic or a low-volume of transactions that require interaction with a customer service representative.¹²¹ Staff submitted testimony opposing all the closures, asserting that walk-in centers provide valuable services to customers that cannot be fully replicated by phone or internet transactions.¹²² In its comments, IBEW quotes Staff's pre-filed testimony and asserts that closing the walk-in offices negatively impact elderly and low-income customers, would increase call center overload and call center response time, and discourage customer engagement, in contravention of REV polices.¹²³

Today we approve the closure of three of the seven offices that were originally slated for closure, on a phased schedule that provides time for outreach and implementation efforts to ease the impact on customers. At the hearings held specifically with regard to the proposed closures, Staff explained that although it originally opposed the closure of any of the walk-in centers, the three offices slated to close under the terms of the Joint Proposal have the lowest volume of customer traffic.¹²⁴ Staff and the Companies stressed that those customers who will no longer have access to a walk-in office may avail themselves of alternate avenues of assistance, including a 24-hour customer self-service line, a weekday customer service line, website access, a credit card payment option, and cash payment options at Wal-Mart stores and Western Union

¹²¹ Company CS Panel, p. 27.

¹²² Staff CS Panel, p. 32.

¹²³ IBEW Comments, p. 2.

¹²⁴ Transcript of April 21, 2016 Hearing on Customer Service Center Closure (Tr. 4/21/16), p. 11; Transcript of April 20, 2016 Hearing on Customer Service Center Closure (Tr. 4/20/16), p. 13.

locations.¹²⁵ A representative of IBEW also attended each hearing, stressing that NYSEG should not be permitted to avoid dealing directly with its customers by closing walk-in offices.¹²⁶ The hearings evoked very limited participation or comment from the public.

We conclude that the phased plan to close the walk-in offices in Belmont, Geneseo and Mechanicville is a reasonable compromise in light of the original litigation positions of the parties. Although such closures are significant for those limited number of customers who utilize these offices, the careful analysis by the Companies and Staff reveals that the number of such customers is low, thereby supporting the Companies' position that, in these particular instances, staffing these offices may no longer be a prudent use of resources and ratepayer money.¹²⁷

Further, in light of the other customer service benefits included in the rate plans, in the specific context presented here the compromise serves the public interest. The rate plans include several customer service improvements that were advocated by UIU and/or Staff in pre-filed testimony. For example, both Companies will strive to achieve at least 80

¹²⁵ Tr. 4/20/16, p. 9, Tr. 4/21/16, pp. 6, 12-13.

¹²⁶ Tr. 4/20/16, p. 19; Tr. 4/21/16, p. 13-14; Transcript of 3/29/16 Public Statement Hearing (Tr. 3/29/16), p. 16-17; Transcript of 4/13/16, 3 p.m. Public Statement Hearing, p. 8.

¹²⁷ For example, the number of representative-assisted transactions in 2014 originating at the Geneseo office was 227, 283 in Belmont and 574 in Mechanicville. In terms of total representative-assisted transactions, the Geneseo and Belmont transactions each represent 0.5 percent of RG&E's total representative-assisted transactions and the Mechanicville transactions represent 0.6 percent of NYSEG's total representative-assisted transactions. See Exhibit 220, Company CS Panel Exhibit, Statistics for Payment and Representative-Assisted Transactions by NYSEG and RG&E Customers at Walk-In Offices and Other Methods.

percent same-day reconnections for residential customers whose service was disconnected for non-payment, but who then become eligible for reconnection during weekday business hours.¹²⁸ The rate plans also provide that the Companies will accept an Individual Taxpayer Identification Number as an acceptable form of identification from an applicant for service, thereby assuring that those without social security numbers may still apply for electric and gas service.¹²⁹ In addition, NYSEG and RG&E now will accept payment by credit card with no additional fee to customers.¹³⁰

Finally, to help ensure that the Companies' customers consistently receive a high quality of service, the Companies' existing Customer Service Performance Mechanism will continue, subjecting the Companies to a negative revenue adjustment if they fail to meet certain performance metrics. The negative revenue adjustment is subject to doubling should either NYSEG or RG&E miss a specific customer service metric in consecutive years.¹³¹ Further, an annual positive incentive of seven basis points is established if the Companies keep residential service terminations below specific thresholds.¹³² As Staff points out in support of the Joint Proposal, this incentive is important to deter the excessive use of service terminations as a credit and collections tool, a practice that could put the health, safety and welfare of New Yorkers at risk.¹³³

VIII. Revenue Decoupling

The Companies currently have revenue decoupling mechanisms (RDMs) for both electric and gas. These mechanisms

¹²⁸ Staff CS Panel, p. 32; Collar, p. 15.

¹²⁹ Joint Proposal, p. 32; See UIU SIS, p. 10.

¹³⁰ Joint Proposal, p. 15.

¹³¹ Joint Proposal, Appendix N, p. 2.

¹³² Joint Proposal, p. 23, Appendix N.

¹³³ Staff SIS, p. 57.

true up forecast and actual delivery service revenues and, thereby, decouple delivery service revenue from commodity sales so as to eliminate potential disincentives to utilities to engage in energy efficiency programs.¹³⁴

For electric, the Companies will continue their existing RDMs on a total revenue per class basis. Originally, the Companies proposed that, for reconciliation purposes, all residential service classes would be combined into a single RDM group and all of the non-residential classes into a separate RDM group in order to reduce volatility to customers and simplify administration.¹³⁵ This proposal was opposed in part by Nucor and Staff, on the basis that it would produce cross-subsidizations among non-residential customers that possess fundamentally different load characteristics.¹³⁶ Staff also opposed the Companies' proposal to include area and street lighting classes into RDM.¹³⁷

The electric RDMs approved here reflect a middle ground in that all residential service classifications will be included in a single RDM group, the Companies will continue to maintain individual non-residential RDM service classes, and street and area lighting will be included in the RDM. However, the street/area lighting RDM will begin in Rate Year Two, and then only in the event the Companies have an effective LED

¹³⁴ See Case 03-E-0640, Proceeding on Motion of the Commission to Investigate Potential Electric Delivery Rate Disincentives against the Promotion of Energy Efficiency, Renewable Technologies and Distributed Generation, Order Requiring Proposals for Revenue Decoupling Mechanisms (issued April 20, 2007), pp. 2-3.

¹³⁵ Exhibit 92, Direct Testimony of Company Deliveries and Revenue/Revenue-Decoupling Mechanism Panel -- NYSEG, pp. 30-33; Exhibit 104, Direct Testimony of RG&E Deliveries and Revenue/Revenue-Decoupling Mechanism Panel -- RG&E, pp. 29-32.

¹³⁶ Radigan, pp. 6-7; Staff Electric Rates Panel, p. 58.

¹³⁷ Staff Electric Rates Panel, p. 60.

street lighting tariff. Coupling the street lighting RDM with the LED tariff is consistent with the purpose of an RDM to advance our energy efficiency objectives.

Gas RDMs will continue to be reconciled on a revenue per customer basis in two classes, residential and non-residential.¹³⁸ The per-customer reconciliation encourages the Companies to attract new gas customers, advancing our goal of providing customers with access to natural gas service.

We find that RDMs remain in the public interest as New York continues to seek ways to increase energy efficiency. Further, the modifications to the Companies' existing RDMs as proposed by the parties are reasonable and fair to customers. Accordingly, the RDMs are adopted as proposed in the Joint Proposal.

IX. Reforming the Energy Vision

We find that the terms of the Joint Proposal are appropriately reflective of, and consistent with, current Commission and State policy. In the REV proceeding, we describe our vision of a more consumer-centered electric industry that utilizes technology and markets to achieve a more efficient, affordable, resilient and climate-friendly system.¹³⁹ At the heart of this vision is the integration of more distributed energy resources (DER) into the planning and operation of the State's electric system.

The NYSEG electric rate plan approved today includes funding for the ESC Project to be located in the Ithaca area. The ESC Project will be used to test NYSEG's ability to serve as the Distributed System Platform Provider. As the DSP, NYSEG will develop and implement new processes and tools for

¹³⁸ Joint Proposal, p. 36, Appendix Y.

¹³⁹ Case 14-M-0101, supra, Order Adopting Regulator Policy Framework and Implementation Plan (issued February 26, 2015) (Framework Order), p. 3.

integrated distribution system planning, including an integrated system plan, DER forecasting, DER alternatives modeling, DER heat map that show locations that are more likely to be able to accommodate DER, and methods to help facilitate interconnections. In line with the REV objectives for customers and communities, the Companies will institute a collaborative to address new rate designs within the ESC Project. The Companies have also agreed to provide quarterly reports on the project to Staff and interested parties, thereby promoting transparency and giving further opportunity for input by other parties.¹⁴⁰

The ESC Project also contemplates deployment of AMI for approximately 12,000 customers in the ESC Project area. This will allow NYSEG to test new rate designs and encourage customer participation in energy markets and in actively managing their energy use and we expect such testing to align with our Ratemaking Order policies on rate design. As Staff points out, and as our public statement hearings demonstrated, customer interest and engagement in alternative energy options is high in the Ithaca region, making it a logical place to test REV-related initiatives.¹⁴¹ The collaborative for considering rate design initiatives within the ESC Project will also address the deployment of AMI beyond the ESC territory. Through the ESC project, NYSEG will be able to test DSP functions, new technologies, market concepts and customer engagement models on a controlled scale. RG&E should also benefit from the lessons learned in the ESC Project. Indeed, the ESC Project may help inform utilities throughout the State as they develop their own DSP initiatives.¹⁴²

¹⁴⁰ Joint Proposal, p. 20.

¹⁴¹ Staff SIS, p. 29; See Tr. 3/29/16, 3 p.m., pp. 26-40, 50-56; Id. 7 p.m., pp. 34-40.

¹⁴² Pace SIS, p. 5.

Also in line with REV initiatives, under the terms of the Joint Proposal the Companies agreed to continue evaluating two non-wires alternative projects that were proposed in the context of the REV proceeding. To address poor reliability performance at its JAVA substation, NYSEG is considering alternatives to installing new transformers. Likewise, RG&E will consider proposed NWA solutions to overloads at its Station 43 transformer. As Pace explains in its Statement in Support of the Joint Proposal, NWAs can potentially defer or eliminate the need for traditional infrastructure projects to the ultimate benefit of customers.¹⁴³

In addition to the measures approved here, and as anticipated by the signatory parties to the Joint Proposal,¹⁴⁴ further actions designed to support the REV initiative will be undertaken by the Companies pursuant to our recent Ratemaking Order. For example, we directed the development of a set of new incentive mechanisms called Earnings Adjustment Mechanisms (EAMs).¹⁴⁵ Unlike existing incentive mechanisms that apply to more traditional, basic services, EAMs are outcome-based incentives designed to create new types of performance expectations to counter the implicit negative incentives against REV objectives present in the existing ratemaking model. Recognizing that expediting the interconnection process will promote the development of DER, the Ratemaking Order requires utilities to propose a survey process and interconnection EAM by August 1, 2016. The Companies are also required to submit a proposal by December 1, 2016 to establish targets for peak reduction and load factor improvement so as to provide a basis for a system efficiency EAM. This work is crucial because one

¹⁴³ Pace SIS, p. 7.

¹⁴⁴ See Joint Proposal, p. 3.

¹⁴⁵ See Ratemaking Order, pp. 154-155.

of the most important objectives of REV is improving overall system efficiency. The Ratemaking Order also sets a path toward the eventual establishment of energy efficiency, customer engagement and Clean Energy Standard EAMs. As discussed in the Ratemaking Order, each of these mechanisms will play a role in achieving the cleaner, more efficient and consumer-centric electric industry envisioned by REV.

The Companies should make the requisite filings to establish these mechanisms in the future in accordance with the schedule set forth in the Ratemaking Order. In addition, the Companies are directed to consult with Staff to determine a timeline for developing the EAMs described in the Ratemaking Order during the course of the rate plans and report to the Commission within 60 days of this order.

The Commission also required, in the Ratemaking Order, that any multi-year rate plan that includes a net plant reconciliation, or "clawback" mechanism -- traditionally designed to return earnings from capital programs that fall below approved levels to customers -- must also include a reform mechanism, by which the utility would be allowed to retain the earnings on capital expenditures that are reflected in base rates where such expenditures are demonstrated to have been avoided by DER investment and use these earnings to offset the costs of the DER.¹⁴⁶ This reform is necessary to encourage utilities to pursue cost-effective DER alternatives to capital investments. Because such alternatives will often be achieved through operating expenses, the ordinary operation of the clawback mechanism would result in utilities forfeiting their capital earnings with no offsetting compensation.

¹⁴⁶ Ratemaking Order, p 101.

The clawback mechanisms included in these rate plans provide that the Companies' net plant targets will be reduced by the amount allocated to a project that is replaced or displaced by a NWA. The revenue requirement impact associated with projects avoided by NWA projects or other DER alternatives will be deferred for future disposition by the Commission. Costs associated with these alternative projects will flow through the RAM, subject to a cap with the costs in excess of the cap deferred to the next year's RAM. In this way, the signatory parties accomplished necessary clawback reform by ensuring that the Companies will be timely reimbursed for NWA costs and will not have a disincentive to utilize DER alternatives to traditional capital investments. This proposal is consistent with the Ratemaking Order, which anticipated that some flexibility may be required to implement clawback reform on a utility by utility basis.¹⁴⁷

We find that these additional requirements, in conjunction with the terms of the proposed electric rate plans, will advance the Commission's and the State's REV goals.

X. Gas Issues

The rate plans adopted here advance our gas policies, both in terms of gas safety and enhancing customer's access to natural gas. With regards to gas safety, the Companies' existing Gas Safety Performance Measures are continued and expanded. These measures impose a negative revenue adjustment for failure to meet specific metrics.¹⁴⁸ The rate plans also continue, and incentivize, the replacement or elimination of leak prone mains and provide for the funding of Incremental Maintenance Programs that are designed to improve safety and

¹⁴⁷ Id.

¹⁴⁸ Joint Proposal, Section XI and Appendix M.

reliability.¹⁴⁹ We find that these provisions are consistent with and advance our long-standing policy goals and objectives.¹⁵⁰ The negative revenue adjustments and incentive mechanisms incorporated in the rate plans will encourage the Companies to enhance gas safety and promote the modernization of the State's natural gas system.

Ms. Weiser and some members of the public challenge components of the rate plans that support gas infrastructure expansion and, more particularly, the inclusion of both the Lansing-Freeville and Boiceville Reinforcement Projects included in the capital budget.¹⁵¹ They assert that gas expansion is contrary to the State's REV-related policies of encouraging the use of renewable energy and runs afoul of the State's goals for greenhouse gas reductions. Other commenters take the opposite position, arguing that natural gas is cleaner and less expensive than alternatives and that use of gas promotes economic development, both in construction of new infrastructure and by offering less expensive fuel for business. Several commenters specifically support the Boiceville Reinforcement Project, highlighting their preference for natural gas over other energy sources based on both environmental and economic considerations.

¹⁴⁹ Joint Proposal, Section XVI.C.

¹⁵⁰ See Case 15-G-0151, Implementation of a Recovery Mechanism to Support Accelerated Replacement of Infrastructure on the Natural Gas System, Order Instituting Proceeding (issued April 17, 2015), p. 2.

¹⁵¹ NYSEG included these projects in its capital forecast in initial testimony. Exhibit 248, Direct Testimony of Company Gas Engineering, Delivery and Operations Panel--NYSEG, p. 20 and Exhibit 39, Schedules A, B, D, E, F, G and H, p. 1. While the Joint Proposal does not specifically mention either project as included or excluded from the capital budget, the Companies stated that these projects are included in NYSEG's capital expenditure budget reflected in the Joint Proposal's revenue requirement. Evidentiary Hearing Tr., p. 70.

Where customers are seeking to move away from propane and oil as a heating source, utilities have an obligation to serve those customers by providing access to natural gas where provision of such service is feasible and economic. Natural gas is a cleaner and far more economical source of energy for home heating than other fossil fuels.¹⁵² As customers are given the opportunity to convert from oil or propane for heating to natural gas, it will significantly reduce carbon emissions, consistent with the State's ambitious carbon emissions reduction goals. Furthermore, many customers that engage in aggressive energy efficiency measures or employ behind-the-meter clean energy resources must still have a back-up fuel source for heat and hot water. By allowing customers to choose a cleaner option than fuel oil or propane as an alternate resource, our carbon reduction goals will be advanced in a tangible fashion in the near term. In the long term, we encourage utilities to develop programs that would incent the use of non-fossil fuel technologies, such as geothermal heat pumps, that will improve sustainability and support system efficiencies.

In addition to the environmental benefits, the expansion of natural gas service will bring more affordable heat to New York homes and businesses. We regularly receive requests from municipalities seeking gas service within their boundaries so that their residents may benefit from lower fuel costs for home heating. As we heard from so many speakers at our Rochester public statement hearings, many people in New York are dismayed by the cost of heating their homes. Low-cost gas can help residential customers struggling to pay bills.

¹⁵² Case 12-G-0297, Proceeding on Motion of the Commission to Examine Policies Regarding the Expansion of Natural Gas Service, Order Instituting Proceeding and Establishing Further Procedures (issued November 30, 2012).

Importantly, it can also act as a catalyst for economic growth by attracting businesses to New York. Individuals or corporations considering locating or expanding business in New York will contemplate the availability of gas infrastructure. If infrastructure is not available, those businesses, and the jobs associated with them, may not choose New York.

For these reasons, we find that the provisions included in the rate plans will promote State carbon reduction policies and indeed support our goals of fostering a safe, affordable and reliable gas system in New York by providing customers with access to a cleaner, more economic fuel source.

XI. Other Provisions

In adopting the terms of the Joint Proposal, we neither reject nor adopt any terms contained therein that are concerned solely with one or more parties' commitment or obligation to take a specified action, and which are imposed on the party or parties at the time the Joint Proposal was signed, and the performance of which is not a matter of compliance with this Order. Accordingly, the obligations described at Section XXIV, paragraphs B. through F. of the Final Joint Proposal are neither adopted nor rejected by this Order.¹⁵³

CONCLUSION

We find that there is a sufficient record basis for our decision to adopt the terms proposed by the signatory parties as set forth in the attached Joint Proposal. The Statements in Support of the signatory parties and the record

¹⁵³ Notwithstanding the language in Section XXIV.C of the Joint Proposal, nothing in the Joint Proposal would preclude reliance on our order adopting the Joint Proposal's terms as precedent in other cases. See Cases 06-G-1185 and 06-G-1186, KeySpan Energy Delivery - Rates, Order Adopting Gas Rate Plans (issued December 21, 2007), pp. 58-60.

evidence on which those parties rely persuade us that these terms reflect an appropriate balance between our duties to protect consumers while ensuring the economic viability of the Companies. Further, the agreed-upon terms, resulting from the hard work and dedication of the parties to these proceedings, are consistent with our environmental, social and economic policies and those of the State. Accordingly, we find that the rate plans adopted herein provide just and reasonable rates, terms and conditions; and, consistent with the discussion herein, are in the public interest.

The Commission orders:

1. The rates, terms, conditions, and provisions of the Joint Proposal dated February 19, 2016, filed in these proceedings and attached hereto as Attachment 1, are adopted and incorporated herein to the extent consistent with the discussion herein.

2. New York State Electric & Gas Corporation (NYSEG) and Rochester Gas and Electric Corporation (RG&E) (together, the Companies) are directed to file cancellation supplements, effective on not less than one day's notice, on or before June 29, 2016, cancelling the tariff amendments and supplements listed in Attachment 4.

3. The Companies are authorized to file, on not less than one day's notice, to take effect on July 1, 2016, on a temporary basis, such tariff changes as are necessary to effectuate the terms of this Order for the rates in the rate year beginning May 1, 2016. The Companies are also authorized to file such tariff changes as are necessary to effectuate ratepayer charges and provisions pursuant to the terms adopted in this Order and to incorporate any provisions that were previously approved by the Commission since the tariff amendments in Attachment 4 were filed.

4. The Companies shall serve copies of its filings on all active parties to these proceedings. Any party wishing to comment on the tariff amendments may do so by filing an original and five copies of its comments with the Secretary to the Commission and serving its comments upon all active parties within ten days of service of the tariff amendments. The amendments specified in the compliance filings shall not become effective on a permanent basis until approved by the Commission and will be subject to refund if any showing is made that the revisions are not in compliance with this Order.

5. The Companies are directed to file such further tariff changes as are necessary to effectuate the rates for Rate Year Two beginning May 1, 2017, and for Rate Year Three beginning May 1, 2018. Such changes shall be filed on not less than 30 days' notice to be effective on a temporary basis.

6. The requirement of the Public Service Law §66(12)(b) that newspaper publication be completed prior to the effective date of the amendments for Rate Year One is waived; provided, however, that the Companies shall file with the Secretary to the Commission, no later than six weeks following the effective date of the amendments, proof that a notice to the public of the changes set forth in the amendments and their effective date has been published once a week for four consecutive weeks in one or more newspapers having general circulation in the service territory of each of the Companies' businesses. The requirements of Public Service Law §66(12)(b) are not waived with respect to the subsequent rate year filings and other tariff filings to be made in compliance with this order.

7. NYSEG shall file a report within 60 days describing its plan to address infrastructure needs within Otsego County.

8. The Companies shall consult with Staff to determine a timeline for developing the Earnings Adjustment Mechanisms described in the Ratemaking Order during the course of the rate plans and submit a report of its findings to the Secretary within 60 days of this order.

9. In the Secretary's sole discretion, the deadlines set forth in this order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least one day prior to the affected deadline.

10. These proceedings are continued.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS
Secretary

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Commissioner Diane X. Burman, concurring:

As reflected in my comments made at the June 15, 2016 session, I concur on this item.